



# भारत का राजपत्र

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नई दिल्ली, अगस्त 26—सितम्बर 1, 2012, शनिवार/भाद्र 4—भाद्र 10, 1934

No. 35।

NEW DELHI, AUGUST 26—SEPTEMBER 1, 2012, SATURDAY/BHADRA 4—BHADRA 10, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके।  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सार्विधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कार्यिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्यिक और प्रशिक्षण विभाग)

नई दिल्ली, 17 अगस्त, 2012

का.आ. 2726.—केन्द्रीय सरकार एतद्वारा दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों में केन्द्रीय अन्वेषण व्यूरो द्वारा उन्हें सौंपे गए परीक्षण न्यायालयों और अपीलों, पुनरीक्षणों या विधि द्वारा स्थापित अपीलीय या पुनरीक्षण न्यायालयों में इन मामलों से उद्भूत अन्य मामलों का अभियोजन स्थानीय क्षेत्रों सहित सम्पूर्ण कर्ताक राज्य, बैंगलौर में संचालित करने के लिए निम्नोक्त वकीलों को विशेष लोक अधिकारीक के रूप में नियुक्त करती है।

सर्वश्री

1. एस. के. मूर्धाराव

2. एन. वी. प्रकाश

3. सिद्धांतिगया एस. हिरेमथ

4. टी. के. मोहनदास

5. जीवनबाबू जे. निरलगी

[फा. सं. 225/30/2012-एकीडी-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 17th August, 2012

S. O. 2726.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No.2 of 1974), the Central Government

hereby appoints following advocates as Special Public Prosecutor for conducting prosecution of cases instituted by Delhi Special Police Establishment (CBI) in the State of Karnataka at Bangalore as entrusted to them by the Central Bureau of Investigation in the trial courts and appeals/ revisions or other matters arising out of these cases in revisional or appellate courts established by law.

S/Shri

- (1) S.K. Murthy Rao
- (2) NV. Prakash
- (3) Siddalingayya S. Hiremath
- (4) T.K. Mohan Das
- (5) Jeevanbabu J Neeralagi

[F. No. 225/30/2012-AVD-II]

RAJIV JAIN, Under Secy.

### वित्त मंत्रालय

(राजस्व विभाग)

(कार्यालय मुख्य आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भोपाल जोन)

भोपाल, 15 जून, 2012

सं. 01/2012-सीमा शुल्क (एन.टी.)

**का.आ. 2727.**—सीमा शुल्क अधिनियम, 1962 की धारा 152 के अन्तर्गत राजस्व विभाग, वित्त मंत्रालय, भारत सरकार द्वारा जारी अधिसूचना संख्या 33/94-सीमा शुल्क (एन.टी.) दिनांक 1-7-94 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, एस.के.एस सोमवंशी, मुख्य आयुक्त, केन्द्रीय उत्पाद, सीमा शुल्क एवं सेवाकर, भोपाल क्षेत्र, भोपाल एटद्वारा खसरा नं. 531/1, 531/2, 531/3, 531/4, 531/5, 520/2, 528/1, 528/2, 542/1(अ), 543, 544, 545/2(स), 561 562/1 एवं 562/2 ग्राम-पटाडी, पोस्ट-तिलकेजा, जिला-कोरबा, राय-छत्तीसगढ़; की 29,929, वर्ग मीटर भूमि को सीमा शुल्क अधिनियम 1962 की धारा-9 के अन्तर्गत सीमा शुल्क निजी बंधित भंडारण्ह हेतु वेयरहाउसिंग स्टेशन घोषित करता हूँ।

[सं. IV/(16)20-तक./सीसीओ/बीजैड/2012]  
एस. के. एस. सोमवंशी, मुख्य आयुक्त

### MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE CHIEF COMMISSIONER, CUSTOMS,  
CENTRAL EXCISE AND SERVICE TAX, BHOPAL  
ZONE)

Bhopal, the 15th June, 2012

No. 01/2012-CUS (NT)

**S. O. 2727.**—In exercise of the powers conferred by Notification No. 33/94-Customs (NT) dated 1-7-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, as amended, issued under Section 152 of the Customs Act, 1962, I, S.K.S. Somvanshi, Chief Commissioner, Customs, Central Excise & Service Tax, Bhopal Zone, Bhopal hereby declare 29,929 sq. mtr. land of Khasra Nos. 531/1, 531/2, 531/3, 531/4, 531/5, 520/2, 528/1, 528/2, 542/1(A), 543, 544, 545/2(C), 561, 562/1 & 562/2 of Village- Pathadi, Post- Tilkeja, Distt- Korba in the state of Chhattisgarh as warehousing station under Section 9 of the Customs Act, 1962 for the Limited purpose of Private Customs Bonded Warehouse.

[No. IV(16)20-Tech./CCO/BZ/2012]

S. K. S. SOMVANSHI, Chief Commissioner

(आयुक्त, केन्द्रीय उत्पाद शुल्क का कार्यालय)

हल्दिया, 20 जुलाई, 2012

सं. 01/2012-सीमा शुल्क (एन.टी.)

**का.आ. 2728.**—सीमा शुल्क अधिनियम, 1962 की धारा 9 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए जैसा कि सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 152 के अधीन जारी, अधिसूचना सं. 33/1994 सीमा शुल्क (एन.टी.) दिनांक 1 जुलाई, 1994 प्राधिकृत है के साथ पठित एमएफडीआर परिपत्र सं. 31/2003 सीमा शुल्क दिनांक 7 अप्रैल, 2003 के आधार पर मैसेस ओएसिस पोलिटर्डस प्राइवेट लिमिटेड, ग्राम-धुलागढ़, पोस्ट-धुलागढ़, सिक्कला, थाना-संक्राइल, जिला-हाबड़ा, पिन-711302 पश्चिम बंगाल को एतद्वारा सीमा शुल्क अधिनियम की धारा 9 के तहत 100% निर्यात इकाई हेतु, विकास आयुक्त, भारत सरकार वित्त मंत्रालय फलता स्पेशल इकोनॉमिक जोन, के पत्र सं. एफ. नं. 2(1)/0 5/2011/5241 दिनांक 24-2-2011 एवं 2(1)/0-5/2011/203 दिनांक 16-4-2012 द्वारा स्वीकृत, फैक्ट्री को परिसीमा में वेयर हाउसिंग गठन के लिए घोषित किया जाता है।

[सं. IV/(16)01-सीईटैक/हाल/ओपीटी/12]  
जी. श्रीहर्ष, आयुक्त

## (OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE)

Haldia, the 20th July, 2012

No. 01/2012-Central Excise (NT)

**S. O. 2728.**—In exercise of the powers conferred under Section 9 of the Customs Act, 1962 as delegated by Notification No.33/1994-Customs (NT) dated 1st July, 1994 issued under Section 152 of Customs Act, 1962 (52 of 1962) read with MFDR Circular No. 31/2003-Customs dated 7th April, 2003, the factory premises of M/s. Oasis Poly traders Pvt. Ltd., Vill.- Dhulagarh, P.O. Dhulagarh, Sibtala, P.S.- Sankrail, Dist.-Howrah, PIN-711 302, West Bengal are, hereby, declared to be a Warehousing Station under Section 9 of the Customs Act, 1962 (52 of 1962) for the purpose of setting up of a 100% Export Oriented Unit, as approved by the Development Commissioner, Falta Special Economic Zone, Ministry of Commerce, Government of India vide their letter F.No.2(1)/0-5/2011/5241 dated 24-2-2011 and 2(1)/0-5/2011/203 dated 16-4-2012.

[No. IV(16)01/CE/Tech./Hal/OPT/12]

G SHRIHARSHA, Commissioner

( सीमा शुल्क के मुख्य आयुक्त, गुजरात क्षेत्र का कार्यालय )

Ahmedabad, 8 अगस्त, 2012

सं. 02/2012-13—सीमा शुल्क, गुजरात

**का.आ. 2729.**—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली, द्वारा जारी अधिसूचना सं. 33/94-सीमा शुल्क (एनटी) दिनांक 1 जुलाई, 1994 (यथा संशोधित) और अधिसूचना संख्या 14/2002-सीमा शुल्क (NT) दिनांक 7 मार्च 2002 (यथा संशोधित) द्वारा, सीमा शुल्क अधिनियम, 1962 की धारा 152 खंड (ए) और सीमा शुल्क अधिनियम, 1962 की धारा 4 की उप-अनुभाग 1 के अंतर्गत प्रदत्त शक्तियों का का प्रयोग करते हुए, मैं, हंस कुमार जैन, मुख्य आयुक्त, सीमा शुल्क, गुजरात क्षेत्र, Ahmedabad, गुजरात राज्य के अंतर्गत कच्छ जिले के भुज तालुका में स्थित गांव “धानेती”, को, सीमा शुल्क अधिनियम, 1962 की धारा 9 के तहत “वेरहाड़सिंगा स्टेशन” घोषित करता हूँ।

[फा. सं. VIII/48-03/टी/सीसीओ/2012]  
हंस कुमार जैन, मुख्य आयुक्त

(OFFICE OF THE CHIEF COMMISSIONER OF CUSTOMS, GUJARAT ZONE)

Ahmedabad, the 8th August, 2012

No. 02/2012-13—Customs Gujarat

**S. O. 2729.**—In exercise of powers conferred vide Notification No. 33/94-Cus (N.T.) dated 1-7-1994 (as amended) and Notification No. 14/2002-Cus (N.T.) dated

7-3-2002 (as amended) issued by Government of India, Ministry of Finance, Department of Revenue, New Delhi, under clause (a) of Section 152 of the Customs Act, 1962 and Sub-section 1 of Section 4 of the Customs Act, 1962 respectively, I, Hans Kumar Jain, Chief Commissioner of Customs, Gujarat Zone, Ahmedabad, hereby declare village “DHANETI” falling under Bhuj Taluka of Kutch District, in the State of Gujarat, as ‘Warehousing Station’ under Section 9 of the Customs Act, 1962.

[F. No. VIII/48-03/T/CCO/2012]

HANS KUMAR JAIN, Chief Commissioner

( सीमा शुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर आयुक्त का कार्यालय,  
हैदराबाद III आयुक्तालय )

हैदराबाद, 16 अगस्त, 2012

सं. 02/2012-कस. ( एनटी. )

**का.आ. 2730.**—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना सं. 33/94-कस्टम्स (एनटी), दिनांक 1-7-1994 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, आश्र्वं प्रदेश राज्य के करीमनगर जिले के गंगाधरा क्षेत्र के खजीपुर गांव को सीमा शुल्क अधिनियम, 1962 (1962 के 52) की धारा 9 के अंतर्गत, निजी गैर सरकारी अनुबंधबद्ध भंडारण (100 % नियात आधारित इकाई) के उद्देश्य से भंडारण स्टेशन के रूप में घोषित करता हूँ।

[फा. सी. सं. VIII/16/13/2012-तक.-कस. ]

जे. एस. चन्द्रशेकर, आयुक्त

(OFFICE OF THE COMMISSIONER OF CUSTOMS,  
CENTRAL EXCISE AND SERVICE TAX HYDERABAD-  
III COMMISSIONERATE)

Hyderabad, the 16th August, 2012

No. 02/2012-CUS. (NT)

**S. O. 2730.**—In exercise of the powers conferred by Notification No.33/94 -Customs (NT) dated 1-7-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare the area of Khazipur Village, Gangadhara Mandal, Karimnagar District, in the state of Andhra Pradesh, to be a Warehousing Station under Section 9 of the Customs Act, 1962 (52 of 1962) for the purpose of licensing of Private Bonded Warehouse (100% Export Oriented Unit).

[F. C. No. VIII/16/13/2012-Tech.-Cus.]

J. S. CHANDRASHEKAR, Commissioner

## सूचना और प्रसारण मंत्रालय

नई दिल्ली, 19 अप्रैल, 2012

**का.आ. 2731.**—इस मंत्रालय की दिनांक 19-1-2012 की समसंख्यक अधिसूचना के अनुक्रम में तथा चलचित्र (प्रमाण) नियम, 1983 के नियम 7 और 8 के साथ यठित चलचित्र अधिनियम 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के बंगलौर सलाहकार पैनल में श्री गौतम चंद लुनावत को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पैनल के सदस्य के रूप में नियुक्त करती है।

[फा. सं. 809/4/2011-एफ(सी)]  
निरुपमा कोत्रु, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND  
BROADCASTING

New Delhi, the 19th April, 2012

**S. O. 2731.**—In continuation of Ministry's Notification of even number dated 19-1-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Gautam Chand Lunawat as a member of Bangalore Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/4/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

## विद्युत मंत्रालय

नई दिल्ली, 14 अगस्त, 2012

**का.आ. 2732.**—केन्द्रीय सरकार, राजभाषा नियम, 1976 के नियम 10 के उप नियम (4) (संघ के शासकीय प्रयोजनों के प्रयोग के लिए) के अनुसरण में टीएचडीसी इंडिया लिमिटेड, ऋषिकेश, एनएचपीसी लिमिटेड, फरीदाबाद, नार्थ ईस्टर्न इलैक्ट्रिक पावर कारपोरेशन लिमिटेड, शिलांग, पावरग्रिड कारपोरेशन ऑफ इंडिया लि, गुडगांव, एनटीपीसी लिमिटेड, नई दिल्ली तथा दामोदर घाटी निगम, कोलकाता के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत कर्मचारीवृद्ध ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :—

1. टीएचडीसी इंडिया लिमिटेड,  
एनसीआर कार्यालय,  
प्लाट नं. 20, सैक्टर-14,  
कोशाम्बी, गाजियाबाद-201010 (उ. प्र.)

2. एनएचपीसी लिमिटेड,  
तीस्ता लो डैम परियोजना, चरण-4,  
कालीझोड़ा, पो. कालीझोड़ा बाजार,  
जिला-दार्जिलिंग-734320 (पश्चिम बंगाल)
3. नार्थ ईस्टर्न इलैक्ट्रिक पावर कारपोरेशन लिमिटेड,  
डिजाइन एंड इंजीनियरिंग,  
नीपको भवन, आर जी ब्रह्मा रोड,  
गुवाहाटी 781005
4. पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,  
उपक्षेपात्र श्रोत्रीय बूझदालय, लोन्वर नॉगांग,  
लापालांग, शिलांग 793006
5. पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,  
हासन 400/220 केवी उपकंद्र,  
एनएच 48, बीएम रोड,  
डोड्डागेनिगरी पोस्ट, शांतिगढ़ के नजदीक,  
हासन-573220 (कर्नाटक)
6. पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,  
नरेन्द्रा 400/220 केवी उपकंद्र,  
मुम्मीगट्टी पोस्ट, धारवाड-580011 (कर्नाटक)
7. पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,  
पुदुच्चेरी 400/230 केवी उपकंद्र,  
रामनाथपुरम गांव,  
थेन्डामनाथम मेन रोड,  
पोस्ट-थेन्डामनाथम,  
पुदुच्चेरी-605502
8. पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,  
कोलार एचवीडीसी उपकंद्र,  
2500 मेंगावाट एचवीडीसी टर्मिनल उपकंद्र,  
कोलार-चिंतामणी रोड,  
पोस्ट-अरहल्ली, कोलार-563101 (कर्नाटक)
9. पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,  
तिरुनेलवेली 400/220 केवी उपकंद्र,  
अभिषेकपट्टी गांव, पोस्ट-वेल्ललमकुलम,  
वाया एम.एस. यूनिवर्सिटी, तेनकाशी रोड,  
तिरुनेलवेली-627012 (तमिलनाडु)
10. क्षेत्रीय निरीक्षण कार्यालय  
एनटीपीसी लिमिटेड,  
29/ए, 100 फोट रोड, बीएम श्री सर्कल,  
इंदिरानगर, कर्स्ट स्टेज,  
बंगलूरु-560038 (कर्नाटक)

11. भू-संरक्षण विभाग,  
दमोदर घाटी निगम,  
जिला-हजारीबाग, झारखण्ड,  
पिन-825301
12. पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड,  
दमोह 400/220 केवी उपकेंद्र,  
कौरासा ग्राम के पास,  
पोस्ट-हथना, सागर रोड,  
दमोह 470672 (म.प्र.)

[फा. सं. 11017/4/2010-हिन्दी]  
रीता आचार्य, संयुक्त सचिव

### MINISTRY OF POWER

New Delhi, the 14th August, 2012

**S. O. 2732.**—In pursuance of Sub Rule(4) of Rule 10 of the Official Language Rules, 1976 (use for official purposes of the union), the Central Government hereby notifies that staff of the following offices, under the administrative control of THDC India Ltd., Rishikesh, NHPC Ltd., Faridabad, North Eastern Electric Power Corporation Ltd., Shillong, Powergrid Corporation of India Ltd., Gurgaon, NTPC Ltd., New Delhi and Damodar Valley Corporation, Kolkata have acquired 80% working knowledge of Hindi:

1. THDC India Ltd.  
NCR Office,  
Plot No.20, Sector-14  
Kaushambi, Ghaziabad-201010(U.P.)
2. NHPC Ltd.,  
Teesta Low Dam Project,  
Stage-IV, Kalijhora,  
P.O. Kalijhora Bazar,  
Distt. Darjeeling-734320  
(West Bengal)
3. North Eastern Electric Power Corporation Ltd.,  
Design and Engineering,  
Neepco Bhawan, R.G. Baruah Road,  
Guwahati-781 005
4. Powergrid Corporation of India Ltd.,  
NERTS Head Quarter, Lower Nongrah,  
Lapalang, Shillong-793006

5. Powergrid Corporation of India Ltd.,  
Hassan 400/220 Kv Sub-Station  
NH-48, B.M. Road,  
Doddagenigere Post, Near Shantigramma  
Hassan-573220 (Karnataka)
6. Powergrid Corporation of India Ltd., Narendra  
400/220 Kv Sub Station, Mummigatti Post,  
Dharwad-580011 (Karnataka)
7. Powergrid Corporation of India Ltd.,  
Puducherry 400/230 Kv Sub Station,  
Ramanathapuram Village, Thondamanatham  
Main Road, P.O. Thondamanatham,  
Puducherry-605502.
8. Powergrid Corporation of India Ltd.,  
Kolar HVDC Station,  
2500 MW HVDC Terminal Station,  
Kolar-Chintamani Road,  
P.O. Arahalli, Kolar-563101 (Karnataka)
9. Powergrid Corporation of India Ltd., Tirunelveli  
400/220 Kv Sub Station, Abhishekpatti Village,  
P.O. Vellalamkulam Via M.S. University, Tenkasi  
Road, Tirunelveli-627012(Tamilnadu)
10. Regional Inspection Office NTPC Ltd.,  
29/A, 100 Feet Road, BM Shree Circle,  
Indiranagar, First Stage, Bengaluru-  
560038(Karnataka)
11. Soil Conservation Department,  
Damodar Valley Corporation,  
District-Hazaribagh,  
Jharkhand Pin-825301
12. Powergrid Corporation of India Ltd.,  
Damoh 400/220 KV Sub Station,  
Near-Kaurasa Village  
P.O. Hathana, Sagar Road,  
Damol-470672 (M. P.)

[F. No. 11017/4/2010-Hindi]

RITA ACTHARYA, Lt. Secy.

## उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

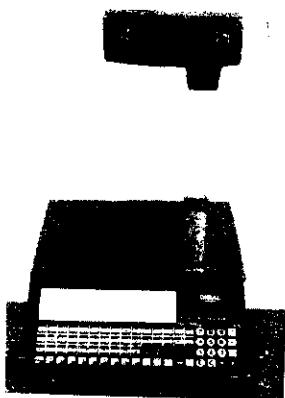
नई दिल्ली, 26 जुलाई, 2012

का.आ. 2733.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा जारी प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) को धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स डिबाल एस.ए., आस्ट्रीटेंजे, 24 (पी.आई. नेइवर), 48160, डेरिओ, (विजसाया), स्पेन द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “500 रैज” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप-मल्टी इंटरवल टाइप मूल्य गणना और नग गणना सुविधा सहित) के मॉडल का, जिसके ब्रांड का नाम “डिबाल” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे मैसर्स टेक्नोवेब आईडी सिस्टम प्राइवेट लिमिटेड, 9/196ई मणपुरत बिल्डिंग, पडमुगल, काकनाड, कोचीन-682021 (करेल) द्वारा भारत में बिक्री से पूर्व अथवा बाद में बिना किसी परिवर्तन के विपरीत किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/11/483 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप-मल्टी इंटरवल टाइप मूल्य गणना और नग गणना सुविधा सहित) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. 15 कि.ग्रा. तक, 15 कि.ग्रा. से ऊपर 30 कि. ग्रा. तक 10 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यक्तिनामक शारित आधेयतुलन प्रभाव है। बैकलिट लिक्विड क्रिस्टल डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्केल की बॉटम साइड में, जहां होल सहित दो स्क्रू दिए गए हैं जिन में से लिडिंग वायर निकाल कर स्केल को सील किया जाता है। सील तोड़े बिना स्केल को कलिब्रेट नहीं किया जा सकता। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे 100 मि. ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^4$ ,  $2 \times 10^4$ ,  $5 \times 10^4$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (270)/2011]  
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

**MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**  
**(Department of Consumer Affairs)**

New Delhi, the 26th July, 2012

**S.O. 2733.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top-multi interval type with price computing and piece counting facility) with digital indication of medium accuracy (Accuracy Class-III) of series “500 RANGE” and with brand name “DIBAL” (hereinafter referred to as the said model), manufactured by M/s. Dibal S.A. Astintze, 24 (P.I. Neinver), 48160, Derio, (Vizcaya), Bilbao, Spain and marketed in India without any alteration before or after sale by M/s. Technowave Id Systems Private Limited, XI/196/E Manapurath Building, Padamugal, Kakkanad, Cochin-682021, Kerala and which is assigned the approval mark IND/09/11/483;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top-multi interval type with price computing and piece counting facility) with a maximum capacity of 30 kg and minimum capacity of 100 g. The verification scale interval (e) is 5g up to 15 kg, above 15 kg and up to 30 kg is 10 g. It has a tare device with a 100 per cent subtractive retained tare effect. The backlit liquid crystal display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply:

Figure-1

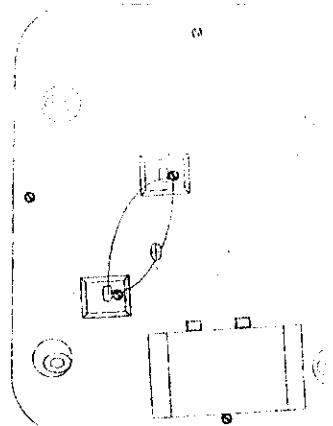
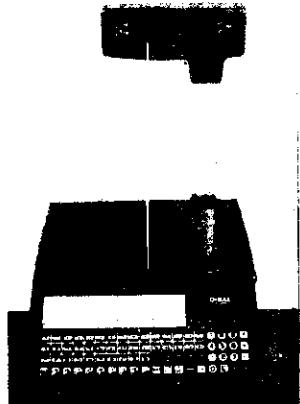


Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the bottom side of the scale where two screws with hole are provided through which leaded wire will be inserted to seal the scale. The scale cannot be calibrated without breaking the seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg, with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg. to 2 g and with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5 g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(270)2011]

B. N. DIXIT, Director of Legal Metrology

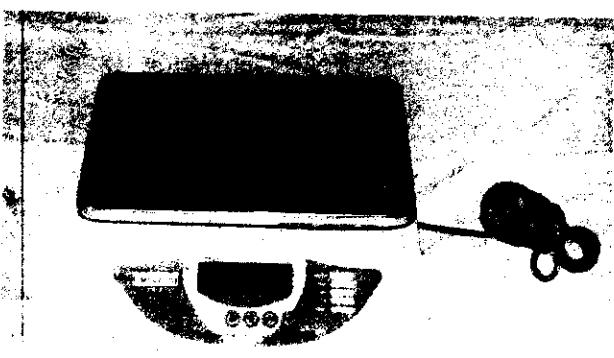
नई दिल्ली, 26 जुलाई, 2012

**का.आ. 2734.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रसुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयेग करते हुए ऐससे एचएमटी स्केल्स इंडिया, 1366, सेक्टर-9, करनाल-132001 (हरियाणा) द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले “एचएसटी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) के मॉडल का, जिसके ब्रांड का नाम “एचएमटी गोल्ड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/12/04 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्प्ले की बाड़ी में से सीलिंग वायर निकाल कर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए.डी. कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो। मि.ग्रा. से 50 मि.ग्रा. तक के “ई” मान के लिए 100 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^8$ ,  $2 \times 10^8$  और  $5 \times 10^8$ , के हैं, जो धनात्पक या ऋणात्पक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(296)/2011]  
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

<sup>1</sup>New Delhi, the 26th July, 2012

**S.O. 2734.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of accuracy (Accuracy Class-II) of series "HST" and with brand name "HMT GOLD" (hereinafter referred to as the said model), manufactured by M/s. HMT Scales India, 1366, Sector-9, Karnal-132001 (Haryana) and which is assigned the approval mark IND/09/12/04.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent (%) subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure—1

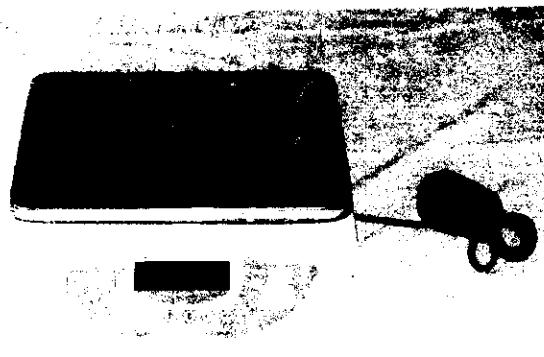


Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 1mg to 50 mg and with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100 mg or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(296)/2011]

B. N. DIXIT, Director of Legal Metrology

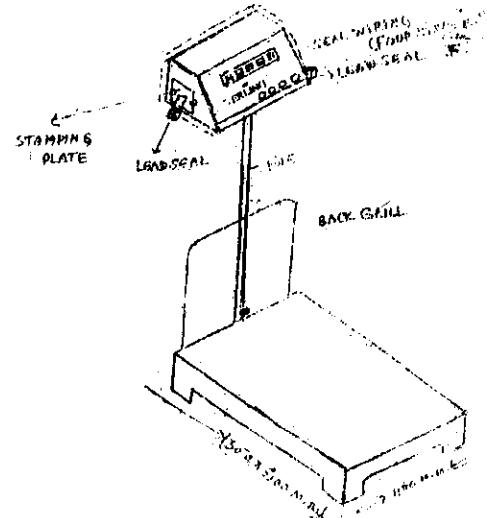
नई दिल्ली, 26 जुलाई, 2012

**कल.आ. 2735.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एचएमटी स्केल्स इंडिया, 1366, सेक्टर-9, करनाल-132001 (हरियाणा) द्वारा विनिर्मित मध्य यथार्थता (यथार्थता वर्ग III) वाले “एचएसपी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम “एचएमटी गोल्ड” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन विह आई एन डी/09/12/05 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 500 कि.ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्प्ले की बाड़ी में से सीलिंग वायर निकालकर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्रस्तुपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्लिच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^4$ ,  $2 \times 10^4$ ,  $5 \times 10^4$ , के हैं, जो धनात्मक या ऋणात्मक पूणीक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(296)/2011]  
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 26th July, 2012

**S.O. 2735.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (platform type) with digital indication of ~~accuracy~~ (accuracy class-III) of series "HSP" and with brand name "HMT GOLD" (hereinafter referred to as the said model), manufactured by M/s. HMT Scales India, 1366, Sector-9, Karnal-132001 (Haryana) and which is assigned the approval mark IND/89/12/05.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500 kg and minimum capacity of 1 kg. The verification scale interval (e) is 50 g. It has a tare device with a 100 per cent (%) subtractive retained tare effect. The light emitting diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

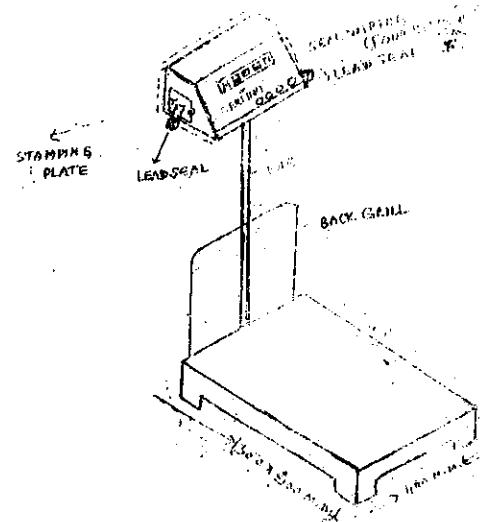
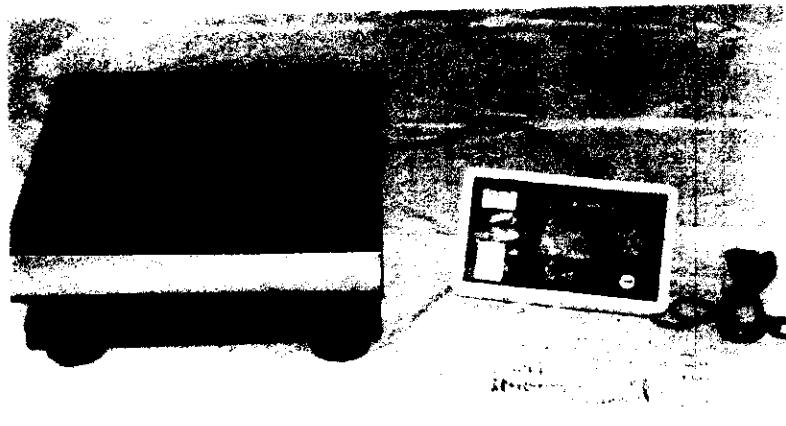


Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 5000 kg with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(296)/2011]

B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 8 अगस्त, 2012

**का.आ. 2736.**—केन्द्रीय सरकार का, नीदरलैंड मीटिनस्ट्रट नीदरलैंड द्वारा अनुमोदित मॉडल के लिए जारी किए गए अनुमोदन प्रमाणपत्र के साथ प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 के दूसरे परन्तुक द्वारा प्रदत्त शक्तियों का प्रयेग करते हुए, मैसर्स क्रोहन आॅयल एंड गैस, निनेरवुम 7441, ब्रेडा, नीदरलैंड द्वारा विनिर्मित यथार्थता वर्ग '0.3' वाले इलेक्ट्रोनिक कैलकुलेटिंग एंड इडिकेटिंग डिवाइस के मॉडल का जसके ब्रांड का नाम "सुमिट 8800" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे भारत में मैसर्स क्रोहन एंड मार्शल प्रा. लि., ए 34-35, एमआईडीसी, इंडस्ट्रियल एरिया, एच ब्लाक, पिम्परी, पुणे-411018 द्वारा बिक्री से पहले अथवा बाद में बिना कोई परिवर्तन किए भारत में विपणीत किया गया है और जिसे अनुमोदन निह आई एन डी/13/12/101 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल इलेक्ट्रोनिक कैलकुलेटिंग एंड इडिकेटिंग डिवाइस (पानी के अलावा अन्य द्रव्यों हेतु मीटर) लिक्निड मापन स्थापन का एक भाग है। उपकरण की तकनीकी विशेषताएं नीचे दी गई हैं:

डिस्प्ले की टाइप

इलेक्ट्रोनिक

डिजाइन किया गया

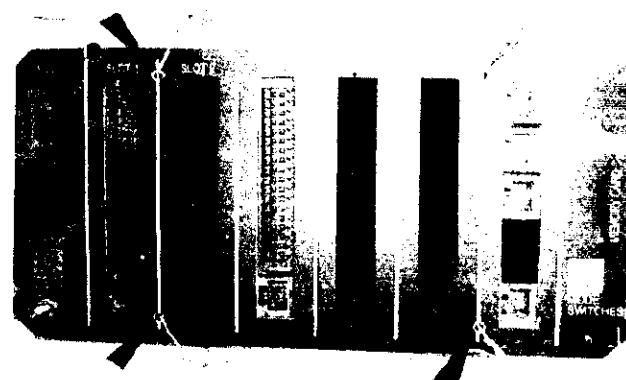
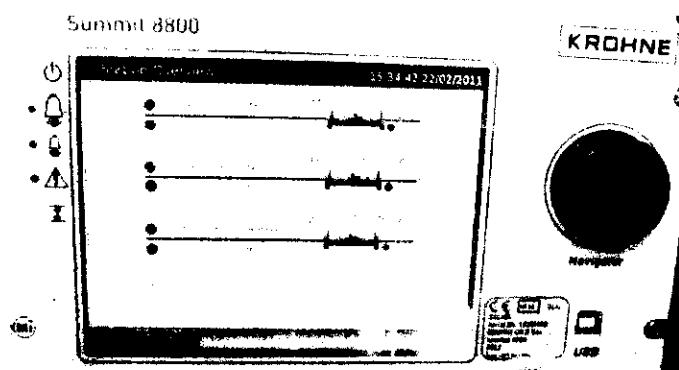
नॉन-कंडेंसिंग हुमिडिटी

आस-पास के तापमान की रेंज

- 25°C / +55°C (हार्ट इनपुट सिग्नल)

- 10°C / +55°C (एनालॉग इनपुट सिग्नल)

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम ऊपर दिया गया है।

[फा. सं. डब्ल्यू. एम-21(125)/2011 |

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 8th August, 2012

**S.O. 2736.**—Whereas the Central Government, after considering the report submitted to it along with the model approval certificate issued by Nederlands Meetinstituut, Netherlands, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the second proviso to Section 22 of the Legal Metrology Act, 2009 (1 of 2010) and sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby approves, issues and publishes the certificate of approval of the model of an electronic calculating and indicating device with brand name "Summit 8800" and accuracy class 0.3 (hereinafter referred to as the said model), manufactured by M/s Krohne Oil and Gas, Minervum 7441, Breda, The Netherlands and marketed in India without any alteration before or after sale by M/s. Krohne and Marshall Pvt. Ltd., A34/35, M.I.D.C. Industrial Area, II Block, Pimpri, Pune-411018, India and which is assigned the approval mark IND/13/12/101.

The said model is a electronic calculating and indication device (Meter for liquids other than water) intended to be used as part of a liquid measurement installation. The technical specifications of the instrument are :

Type of display	Electronic
Designed for	non-condensing humidity
Temperature range ambient	–25°C/+55°C (HART input signals) – 10°C/+55°C (analogue input signals)

Figure 1

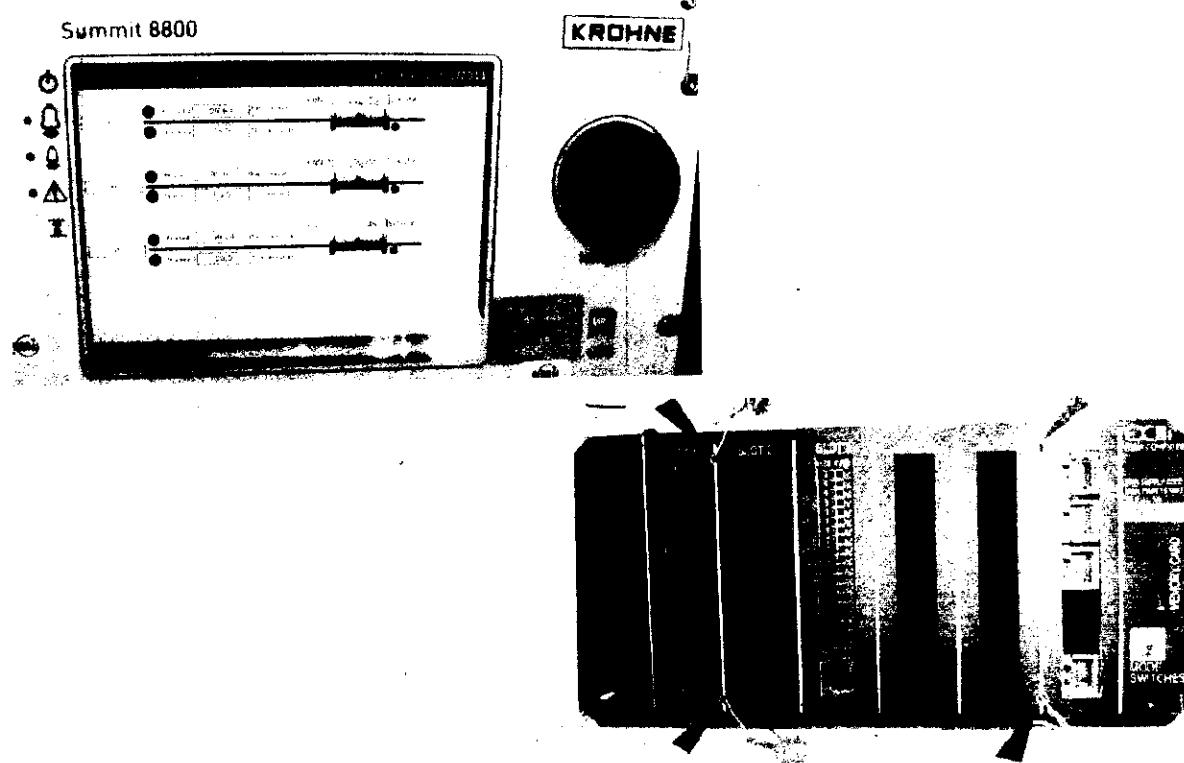


Figure 2 : Schematic Diagram of the sealing provision of the model.

A typical schematic diagram of sealing provision of the model is given above.

[F. No. WM-21(125)/2011]

B. N. DIXIT, Director of Legal Metrology

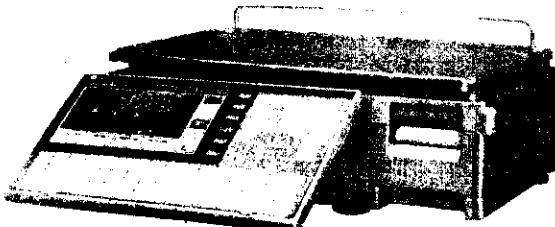
नई दिल्ली, 14 अगस्त, 2012

**का.आ. 2737.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

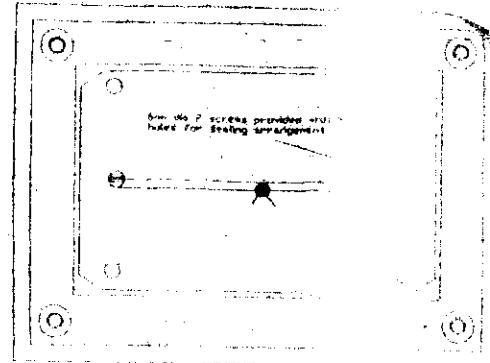
अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ परित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा शक्तियों का प्रयोग करते हुए मैसर्स इशिदा इंडिया (प्रा.) लि., 191, उद्योग विहार, फेज IV, गुडगांव-122016, हरियाणा द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग III) वाले “यूएनआई” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप लेबल प्रिंटर वेइंग स्केल) के मॉडल का, जिसके ब्रांड का नाम “इशिदा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/543 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप लेबल प्रिंटर वेइंग स्केल) है। इसकी अधिकतम क्षमता 15 कि.ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. 6 कि.ग्रा. तक, 6 कि.ग्रा. से ऊपर 15 कि.ग्रा. तक 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। बैकलाइट क्लर लिकिड क्रिस्टल डिस्प्ले (एलसीडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



SEALING ARRANGEMENT DIAG.



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्प्ले की बाड़ी में से सीलिंग वायर निकाल कर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और ट्यॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^{-3}$ ,  $2 \times 10^{-3}$ ,  $5 \times 10^{-3}$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

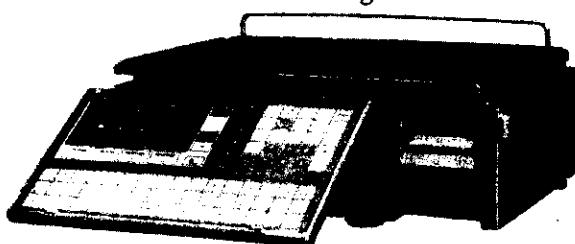
New Delhi, the 14th August, 2012

**S.O. 2737.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top label printer weighting scale) with digital indication of medium accuracy (Accuracy, Class-III) of series "UNI" and with brand name "ISHIDA" (hereinafter referred to as the said model), manufactured by M/s. Ishida India Pvt. Ltd., 191, Udyog Vihar, Phase IV, Gurgaon-122016, Haryana and which is assigned the approval mark IND/09/11/543.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top label printer weighing scale) with a maximum capacity of 15 kg and minimum capacity of 40 g. The verification scale interval (e) is 2g up to 6 kg, above 6 kg and up to 15 kg is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The backlight colour liquid crystal display (LCD) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure 1.



SEALING ARRANGEMENT DIAGRAM

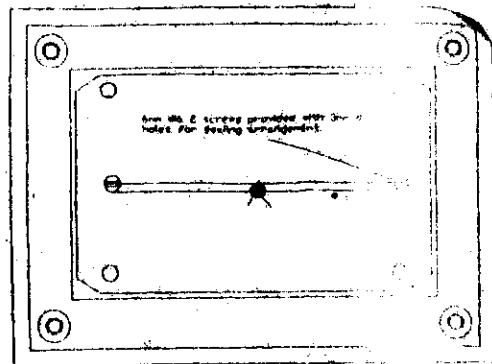


Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 10000 for 'e' value of 100 mg to 2 g and with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(227)/2011]

B. N. DIXIT, Director of Legal Metrology

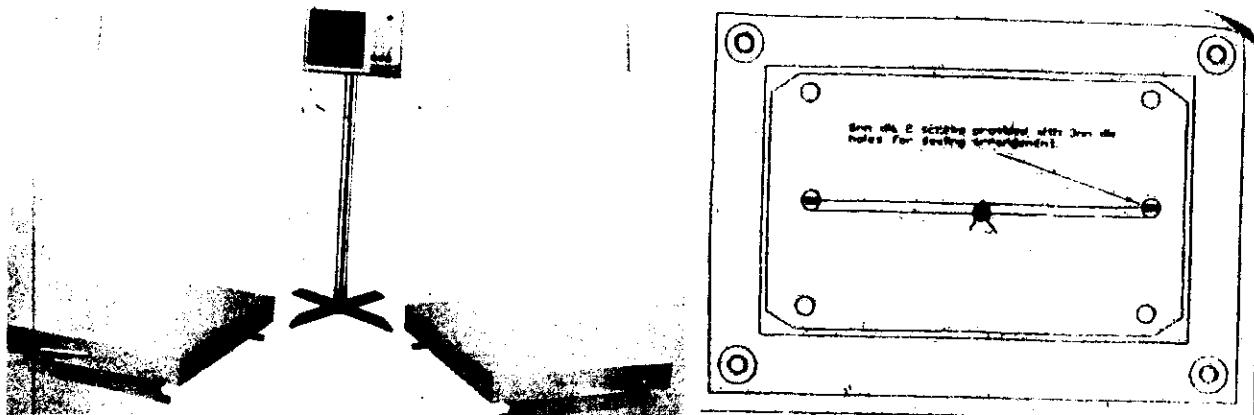
नई दिल्ली, 14 अगस्त, 2012

का.आ. 2738.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इशिदा इंडिया (प्रा. लि.), 191, उद्योग विहार, फेज IV, मुड़गांव-122016, हरियाणा द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले “आई जेड-एस” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म/स टाइप वेइंग मशीन) के मॉडल का, जिसके ब्रांड का नाम ‘इशिदा’ है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/544 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म/स टाइप वेइंग मशीन) है। इसकी अधिकतम क्षमता 150 कि.ग्रा. और न्यूनतम क्षमता 400 ग्रा. है। सत्यापन मापमान अंतराल (ई) 20 ग्रा. 60 कि.ग्रा. तक, 60 कि.ग्रा. से ऊपर 150 कि.ग्रा. तक 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। बैंकलाइट टीएफटी कलर प्रदर्शित के साथ एलईडी प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्प्ले की बाढ़ी में से सीलिंग वायर निकाल कर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के बैसे ही मेक, यथार्थता और कार्बपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^4$ ,  $2 \times 10^4$ ,  $5 \times 10^4$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(227)/2011]  
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

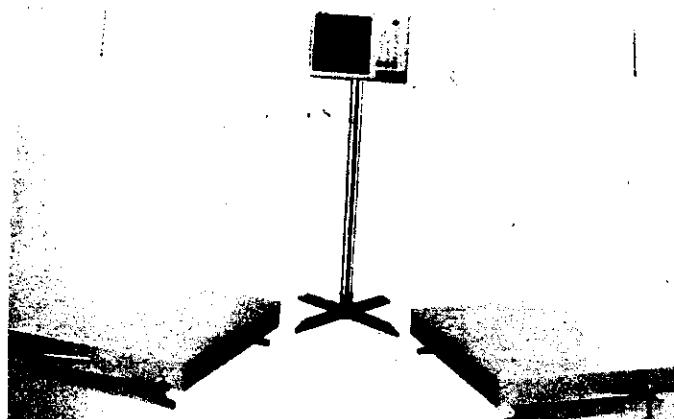
New Delhi, the 14th August, 2012

**S.O. 2738.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform/S type weighing machine) with digital indication of medium accuracy (Accuracy Class-III) of series "IZ-S" and with brand name "ISHIDA" (hereinafter referred to as the said model), manufactured by M/s. Ishida India Pvt. Ltd., 191, Udyog Vihar, Phase IV, Gurgaon-122016, Haryana and which is assigned the approval mark IND/09/11/544.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform/S type weighing machine) with a maximum capacity of 150 kg and minimum capacity of 400 g. The verification scale interval (e) is 20 g up to 60 kg, above 60 kg and up to 150 kg is 50 g. It has a tare device with a 100 per cent subtractive retained tare effect. The back-light TFT colour display with LCD display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure 1.



Sealing Arrangement Diagram

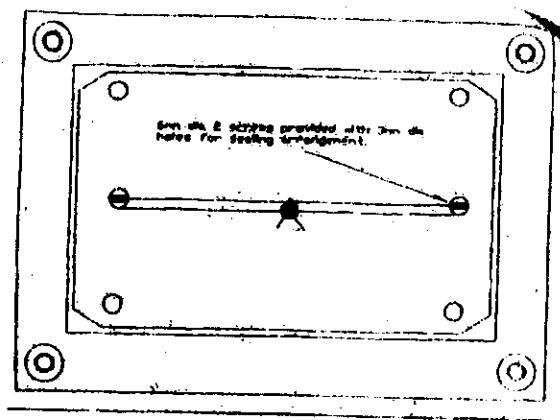


Figure 2 Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 5000 kg with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(227)/2011]

B. N. DIXIT, Director of Legal Metrology

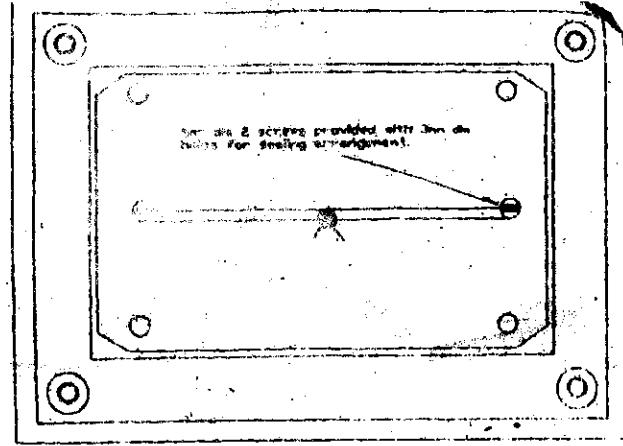
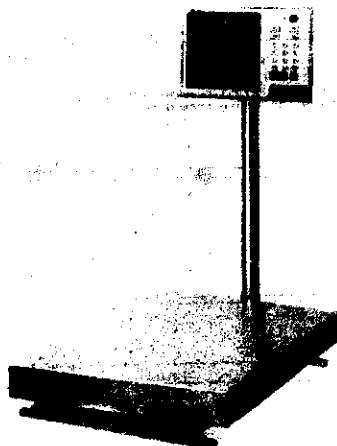
नई दिल्ली, 14 अगस्त, 2012

**का.आ. 2739.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित भौमिका (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पाठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इशिद्य इंडिया (प्रा. लि.), 191, उद्योग विहार, फेज IV, गुडगांव-122016, हरियाणा द्वारा विनिर्भृत मध्यम यथार्थता (यथार्थता वर्ग III) वाले “आईब्रेड-डी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप/डेस्क टॉप वेंडिंग स्केल) के मॉडल का, जिसके ग्राउंड का माप “इशिदा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/545 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप/डेस्क टॉप वेंडिंग स्केल) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. से 15 कि.ग्रा. तक 15 कि.ग्रा. से ऊपर 30 कि.ग्रा. तक 10 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। बैकलाइट टीएफटी कलर प्रदर्शित के साथ (एलईडी) प्रदर्श तोलन परिणाम उपदर्शक तकरा है। उपकरण 230 बोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

### आकृति-1



### आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम ।

डिस्प्ले की बड़ी में से सीलिंग वायर निकाल कर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप कवर में बने दो छोटे में से सीलिंग वायर निकाल कर सोल से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्रूफी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए एडी कार्ड/भद्र बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और तदी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्भृत उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^{-3}$ ,  $2 \times 10^{-3}$ ,  $5 \times 10^{-3}$ , के हैं, जो धनात्मक या ऋणात्मक मूल्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(227)/2011]

ची. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 14th August, 2012

**S.O. 2739.—**Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 17 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (able top/desktop weighing scale) with digital indication of medium accuracy (accuracy, class-III) of series "IZ-D" and with brand name "ISHIDA" (hereinafter referred to as the said model), manufactured by M/s. Ishida India Pvt. Ltd., 491, Dnyog Vihar, Phase IV, Gurgaon-122016, Haryana and which is assigned the approval mark, IND/09/11/545.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top/desktop weighing scale) with a maximum capacity of 30kg, and minimum capacity of 100g. The verification scale interval (e) is 5g, up to 15 kg, above 15 kg, and up to 30 kg is 10g. It has a tare device with a 100 per cent subtractive retained tare effect. The back light TFT colour display with Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 110 Volts, 50 Hertz alternative current power supply.

Figure 1.

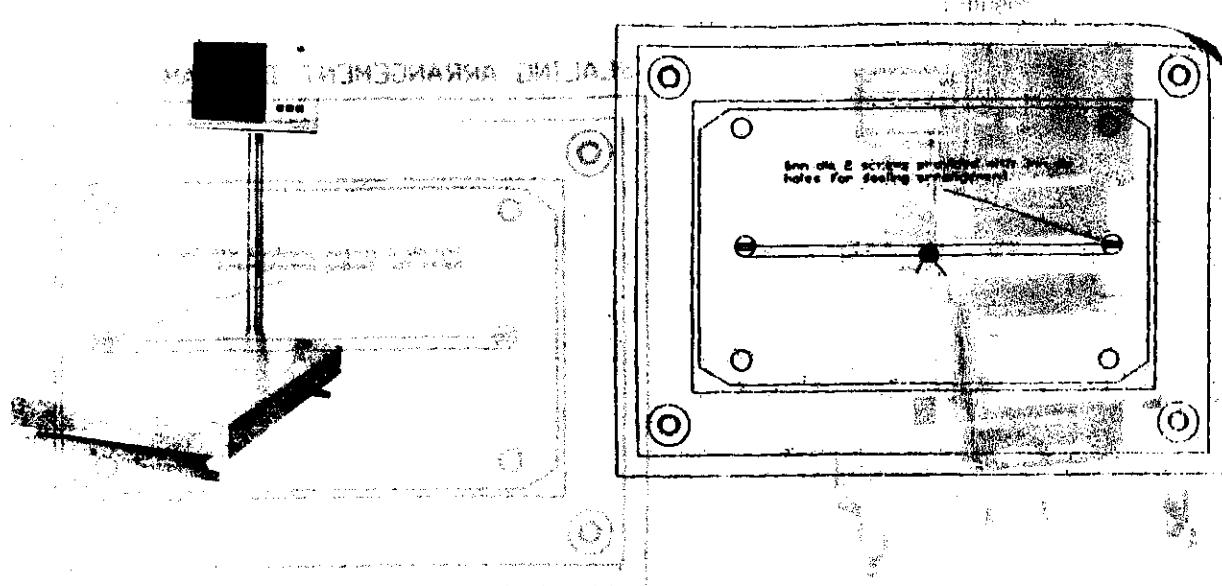


Figure 2 Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg, with verification scale interval (n) in the range of 100 to 10000 for 'e' value of 100 mg. to 2 g. and with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(227)/2011]

**B. N. DIXIT, Director of Legal Metrology**

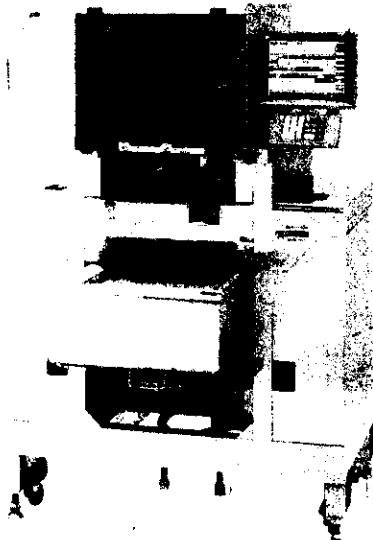
नई दिल्ली, 14 अगस्त, 2012-

का.आ. 2740.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

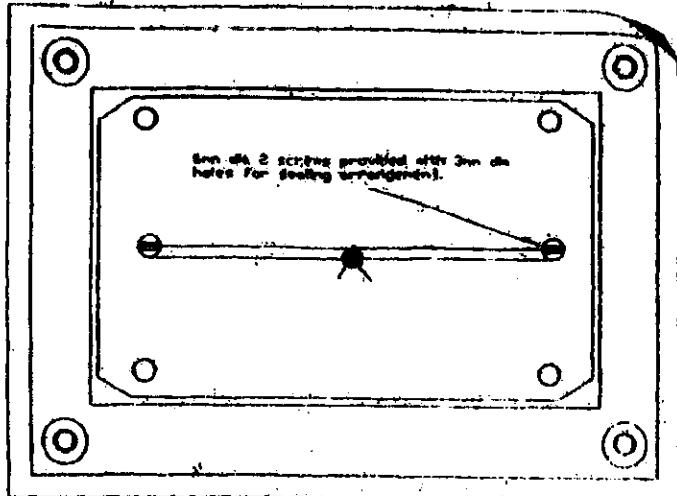
अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इशिदा इंडिया (प्रा. लि.), 191, उद्योग विहार, फेज IV, गुडगांव-122016, हरियाणा द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले “डब्ल्यूएम” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप रैपिंग एंड लेबलिंग वेइंग स्केल) के मॉडल का, जिसके ब्रांड का नाम “इशिदा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/546 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप रैपिंग एंड लेबलिंग वेइंग स्केल) है। इसकी अधिकतम क्षमता 15 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्त है। जिसका शत-प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। बैकलाइट कलर लिकिवड क्रिस्टल डिस्प्ले (एलसीडी) प्रदर्श तोलन परिणाम उपरोक्त करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



SEALING ARRANGEMENT DIAGRAM



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्प्ले की बाढ़ी में से सीलिंग वायर निकाल कर डिस्प्ले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्प्ले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (माडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^3$ ,  $2 \times 10^3$ ,  $5 \times 10^3$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

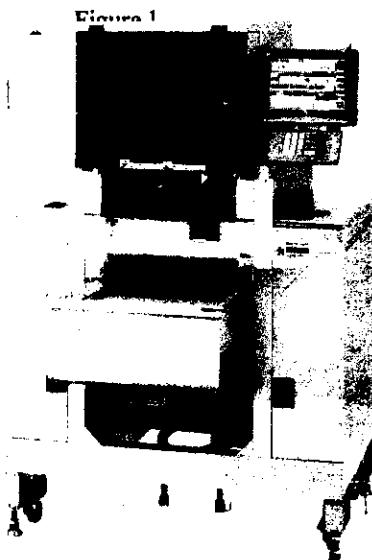
[फा. सं. डब्ल्यू एम. 21(227)/2011]  
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 14th August, 2012

**S.O. 2740.**—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues publishes the certificate of approval of the model of non-automatic weighing instrument (Table top wrapping and labeling weighing scale) with digital indication of medium accuracy (accuracy, class-III) of series "WM" and with brand name "ISHIDA" (hereinafter referred to as the said model), manufactured by M/s Ishida India Pvt. Ltd., 191, Udyog Vihar, Phase IV, Gurgaon-122016, Haryana and which is assigned the approval mark IND/09/11/546.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top wrapping and labeling weighing scale) with a maximum capacity of 15kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The backlight colour Liquid Crystal Display (LCD) with touch panel indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.



SEALING ARRANGEMENT DIAGRAM

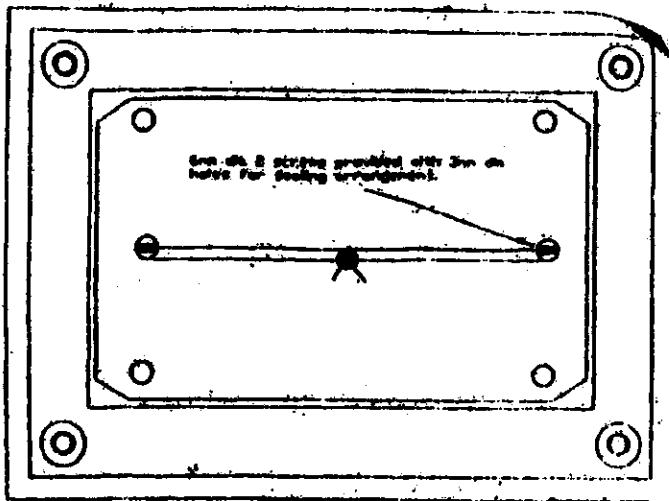


Figure-2 : Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (n) in the range of 100 to 10000 for 'e' value of 100 mg. to 2 g. and with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(227)/2011]

B. N. DIXIT, Director of Legal Metrology

( भारतीय मानक व्यूरो )

नई दिल्ली, 3 अगस्त, 2012

**का.आ 2741.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एवं द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—**

## अनुसूची

क्रम स्थापित भारतीय मानक (को)

संख्या की संख्या, वर्ष और शीर्षक

तथे भारतीय मानक द्वारा

स्थापित तिथि

अतिक्रमित भारतीय मानक

अथवा मानकों, यदि कोई हो,  
की संख्या और वर्ष

(1)

(2)

(3)

(4)

1. आई एस 6885 (पार्ट 4) : 2011/आई एस ओ  
4545-4 : 2005 धात्विक सामग्री-नूप कठोरता  
परीक्षण भाग 4 कठोरता माप की सारणी  
(पहला पुनरीक्षण)

आई एस 6885 : 1973

30 06 2011

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110012, संग्रह कार्यालयों : नई दिल्ली, कोलकाता, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बत्तू, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी-3/टी-72]

पी. घोष, वैज्ञानिक 'ई' एवं प्रभुल (एमटीडी)

## (BUREAU OF INDIAN STANDARDS)

New Delhi, the 3rd August, 2012

**S. O. 2741.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—**

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 6885 (Pt 4) : 2011/ISO 4545-4 : 2005 Metallic materials—Knoop hardness test Part 4 Table of hardness values (First Revision)	IS 6885 : 1973	30-06-2011

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. MTD 3/T-72]

P. GHOSH, Scientist 'E' &amp; Head (MTD)

नई दिल्ली, 8 अगस्त, 2012

का.आ. 2742.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

## अनुसूची

क्रम सं. स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक

नये भारतीय मानक द्वारा स्थापित तिथि  
अतिक्रमित भारतीय मानक  
अथवा मानकों, यदि कोई है, उन्हीं के बाबत ब्यूरो द्वारा दिल्ली  
की संख्या और वर्ष

(1) (2) (3) (4)

1. आई एस 1528 (भाग 4) : 2012 ऊर्ध्वा सह सामग्रियों के नमूने लेने की और भौतिक परीक्षण पद्धतियाँ --भाग 4 घनत्व अवरुत्तल दुर्गतिनीय उत्पादों के अतिप दलन सामर्थ्य का निर्धारण (दूसरा पुनरीक्षण)

आई एस 1528 (भाग 4) : 30-06-2012  
1974

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फ़र मार्ग, नई दिल्ली-110002, राजधानीयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलोर, भोपाल, भुबनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनंतपुरम से विक्री हेतु उपलब्ध हैं।

[संदर्भ एमटीडी-15/टी-69]

पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 8th August, 2012

S.O. 2742.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 1528(Pt 4) : 2012 Methods of Sampling and Physical Tests for Refractory Materials Part 4 Determination of Cold Crushing Strength of Dense Shaped Refractories Products (Second Revision)	IS 1528(Pt 4) : 1974	30-06-2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. MTD 15/T-69]

P. GHOSH, Scientist 'F' & Head (MTD)

नई दिल्ली, 9 अगस्त, 2012

का.आ. 2743.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किए गए हैं :—

## अनुसूची

क्रम सं.	संशोधित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 12820 : 2004 पानी, गैस तथा मल-जल ले जाने के लिए लोहे के ढलवाँ पाइपों और फिटिंगों के साथ प्रयुक्त यांत्रिक जोड़ों और पुश-आन के लिए रबड़ गास्केटों की आयामीय अपेक्षाएँ (पहला पुनरीक्षण)	संशोधन संख्या 2 अगस्त 2012	31 अगस्त, 2012

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[सदर्भ एमटीडी-6/टी-71]

पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 9th August, 2012

S. O. 2743.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standard(s)	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS.12820 : 2004 Dimensional requirements of rubber gaskets for mechanical joints and push-on joints for use with cast iron pipes and fittings for carrying water, gas and sewage (First Revision)	Amendment no. 2 August 2012	31st August, 2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref MTD 6/I-71]

P. GHOSH, Scientist 'F' & Head (Met Engg.)

नई दिल्ली, 10 अगस्त, 2012

का.आ. 2744.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उप-विनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि एवं पता वर्ष/माह	लाइसेंसधारी का नाम	भारतीय मानक का शीर्षक	भा.मा. सं.	भाग	खण्ड	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3846374	02-07-2012	वेदान्त इण्डस्ट्रीज 5/279, न्यू आशीर्वाद इण्ड. इस्टेट, राम मंदिर रोड, गोरेगाँव (पश्चिम), मुम्बई-400104	250 वोल्टता और 16 एम्पीअर्स तक रेटिं धारा के प्लग्स और सॉकेट-	भा.मा. 1293	—	—	2005

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2.	3846475	02-07-2012	वेदान्त इण्डस्ट्रीज 5/279, न्यू आशीर्वाद इण्ड. इस्टेट, राम मंदिर रोड, गोरेगांव (पश्चिम), मुंबई-400104	घरेलू और समान प्रयोजनों के लिए स्विचें	भाग मा 3854	—	—	1997
3.	3846576	02-07-2012	स्पार्क इलेक्ट्रीकल्स 50/401, मोती लाल नगर सं. 1, अपर फ्लॉर, आदर्श विद्यालय के नजदीक गोरेगांव (पश्चिम), मुंबई-400104	घरेलू और समान प्रयोजनों के लिए स्विचें	भा मा 3854	—	—	1997
4.	3846677	02-07-2012	स्पार्क इलेक्ट्रीकल्स 50/401, मोती लाल नगर सं. 1, अपर फ्लॉर, आदर्श विद्यालय के नजदीक गोरेगांव (पश्चिम), मुंबई-400104	250 वोल्टता और 16 एम्पीअर्स तक रेटित धारा के प्लगस और सॉकेट	भा मा 1293	—	—	2005
5.	3848176	06-07-2012	दमन वायर एण्ड केबल्स सं. 1, अग्रवाल इण्डस्ट्रियल इस्टेट, सेलो के नजदीक, सोमनाथ, दाभेल, दमन और दीव-396210	1100 वो तक एवं सहित कार्यकारी बोल्टता के लिए पी वी सी रोधित केबल	भा मा 694	—	—	1990
6.	3848883	06-07-2012	जूसल इण्डस्ट्रीज शेड 5, बोरी कंपाउन्ड, सोमानी ग्राम, राम मंदिर रोड, गोरेगांव (पश्चिम) मुंबई-400 062 महाराष्ट्र	घरेलू और समान विद्युत अनुप्रयोगों की सुरक्षा : भाग 2 मुख्य अपेक्षाएँ, अनुभाग 3 बिजली की इस्तरी	भा मा 302 • (भाग 2/ अनुभाग 3)	—	—	2007
7.	3848984	06-07-2012	जूसल इण्डस्ट्रीज शेड 5, बोरी कंपाउन्ड, सोमानी ग्राम, राम मंदिर रोड, गोरेगांव (पश्चिम) मुंबई-400 062 महाराष्ट्र	बिजली की इस्तरी	भा मा 366	—	—	1991
8.	3848782	09-07-2012	पदमावती इण्डस्ट्रीज जी-6, शिव कृष्ण कॉलेज, एटगांव स्कूल के सामने, कल्याण भिवंडी रोड, कोनगांव, भिवंडी, जिला-ठाणे-421302, महाराष्ट्र	घरेलू और समान प्रयोजनों के लिए स्विचें	भा मा 3854	—	—	1997

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
9.	3853371	23-07-2012	प्रेस फिट पाइप एन्ड प्रोफाईल एस. सं. 127, राज राजेश्वरी कंपाउण्ड, बाब्बे रेयॉन के पास, सोनाले विलेज भिवण्डी, जिला ठाणे-421302, महाराष्ट्र	धरेलू और समान निर्दित विद्युत संस्थापनों हेतु उपकरणों के लिए इनक्लोजरों की सामान्य अपेक्षाएं विशिष्ट	भा मा 14772	—	—	2000

[सं. केंद्रीय प्रमाणन विभाग/13 : 11]  
एस. बी. रॉय, वैज्ञानिक 'एफ' एवं प्रमुख(एमडीएम-III)

New Delhi, the 10th August, 2012

**S.O. 2744.**—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

**SCHEDULE**

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the Party	Product	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3846374	02-07-2012	Vedant Industries 5/279, New Ashirwad Indl. Estate, Ram Mandir Road Goregaon (West) Mumbai-400104	Plugs and socket outlets of 250 volts and rated current up to 16 amperes	IS 1293	—	—	2005
2.	3846475	02-07-2012	Vedant Industries 5/279, New Ashirwad Indl. Estate, Ram Mandir Road Goregaon (West) Mumbai-400104	Switches for domestic and similar purposes	IS 3854	—	—	1997
3.	3846576	02-07-2012	Spark Electricals 50/401, Moti Lal Nagar No. 1, Upper Floor Near Adarsh Vidyalaya Goregaon (West), Mumbai-400104	Switches for domestic and similar purposes	IS 3854	—	—	1997
4.	3846677	02-07-2012	Spark Electricals 50/401, Moti Lal Nagar No. 1, Upper Floor Near Adarsh Vidyalaya Goregaon (West), Mumbai-400104	Plugs and socket outlets of 250 volts and rated current up to 16 amperes	IS 1293	—	—	2005
5.	3848176	06-07-2012	Daman Wires & Cables No. 1, Agarwal Inds. Estate Near Cello, Somnath, Dabhel Daman, Daman & Diu-396210	PVC insulated (heavy duty) electric cables, part 1 for working voltages upto and including 1100 V.	IS 694	—	—	1990

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
6.	3848883	06-07-2012	Jusal Industries Shed 5, Bori Compound, Somani Gram, Ram Mandir Road, Goregaon (W), Mumbai-400 062 Maharashtra	Safety of Household and similar electrical appliances : Part 2 Particular require- ments, Section 3 Electric Iron	IS 302	(Part 2/ Sec. 3)		2007
7.	3848984	06-07-2012	Jusal Industries Shed 5, Bori Compound, Somani Gram, Ram Mandir Road, Goregaon (W), Mumbai-400 062 Maharashtra	Electric Irons	IS 366		—	1991
8.	3848782	09-07-2012	Padmavati Industries G-6, Shivkripa Complex, Opp. Atgaon School, Kayan Bhiwandi Road, Kongaon Thane, Bhiwandi Maharashtra-421302	Switches for domestic and similar purposes	IS 3854			1997
9.	3853371	23-07-2012	Press Fit Pipe & Profile S. No: 127, Raj Rajeshwari Compound, NR Bombay Rayaon, Sonale Village Thane Bhiwandi Maharashtra-421302	General Requirements for Enclosures for Accessories for Household and Similar Fixed Electrical Installations	IS 14772			2000

[No. CMD/13:11]  
S. B. ROY, Scientist 'F' and Head (MDM-III)

नई दिल्ली, 16 अगस्त, 2012

का. आ. 2745.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

#### अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
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(1)	(2)	(3)	(4)
1.	आई एस 12793 : 2012/आई एस ओ 9130 : 2005 मोटर साइकिल-गुरुत्व केन्द्र ज्ञात करने की मापन पद्धति (पहला पुनरीक्षण)	आई एस 12793 : 1989	जुलाई, 2012
2.	आई एस 13835 (भाग 2) : 2012/आई एस ओ 461 2 : 1985 वायुयान-ग्राउण्ड विद्युत आपूर्ति हेतु कनेक्टर भाग 2 आयाम (पहला पुनरीक्षण)	आई एस 7915 : 1976	जुलाई, 2012

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ टीईडी/जी-2]  
पी. सी. जोशी, वैज्ञानिक 'एफ' एवं प्रमुख (टीईडी)

New Delhi, the 16th August, 2012

S. O. 2745.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each:—

SCHEDULE

Sl. No.	No. Year and of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 12793 : 2012/ISO 9130 : 2005 Motorcycles—Measurement method for location of centre of gravity (First Revision)	IS 12793 : 1989	July, 2012
2.	IS 13835(Pt.2) : 2012/ISO 461-2 : 1985 Aircraft—Connectors for ground electrical supplies Part 2 Dimensions (First Revision)	IS 7915 : 1976	July, 2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bengaluru, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TED/G-2]

P. C. JOSHI, Scientist 'F' & Head (Transport Engg.)

नई दिल्ली, 16 अगस्त, 2012

का. आ. 2746.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में एतदद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिये गए हैं और वापस ले लिये गये हैं:—

अनुसूची

क्रम सं.	रद्द किये गये मानक की संख्या और वर्ष	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)	(4)
1.	आई एस 11887 : 1985 विमान टायर द्वयों के मूल की विशिष्टि	—	चौंक टीईडी 7 द्वारा अपनाए गए आई एस/आई एस औ 20562 : 2004 में अपेक्षाएं शामिल हैं।

[संदर्भ टीईडी/जी-16]  
पी. सी. जोशी, वैज्ञानिक 'एफ' एवं प्रमुख (टीईडी)

New Delhi, the 16th August, 2012

S. O. 2746.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, it is hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule give hereafter, have been cancelled and stand withdrawn.

## SCHEDULE

Sl. No.	No. and Year of the Indian Standards Cancelled	S. O. No. and Date published in the Gazette of India, Part-II, Section-3, Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS 11887 : 1986 Specification for cores for aircraft tyre tube	—	Since the requirements are covered in IS/ISO 20562 : 2004 adopted by TED 7

[Ref. TED G-16]

P. C. JOSHI, Scientist 'F' &amp; Head (Transport Engg.)

नई दिल्ली, 17 अगस्त, 2012

का. आ. 2747.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :—

## अनुसूची

क्रम सं.	संशोधित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1879 : 2010 धातवर्ध्य ढलवां लोहा पाइप फिटिंग-विशिष्टि (तीसरा पुनरीक्षण)	संशोधन संख्या 2 अगस्त, 2012	16 अगस्त, 2012
2.	आई एस 3989 : 2009 लोहे के स्पिगट तथा सॉकिट, अपकेन्द्री ढले (स्पन) मल, अपशिष्टि, सवांतन और बरसाती-पानी के पाइप, फिटिंग्स और सहायकांग-विशिष्टि (तीसरा पुनरीक्षण)	संशोधन संख्या 2 अगस्त, 2012	16 अगस्त, 2012

इन संशोधनों की प्रतियाँ भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ एमटीडी-6/टी-1, 22]  
पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 17th August, 2012

S. O. 2747.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

## SCHEDULE

Sl. No.	No. and Year of the Indian Standard (s)	No. and year of amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1879 : 2010 Malleable cast iron pipe fittings specification (third revision)	Amendment no. 2 August, 2012	16 August, 2012

(1)	(2)	(3)	(4)
2.	IS 3989 : 2009 Centrifugally cast (Spun) iron spigot and socket soil, waste, ventilating and rainwater pipes, fittings and accessories—Specifications (third revision)	Amendment no. 2 August, 2012	16th August, 2012

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram

[Ref. MTD 6/T-1, 22]

P. GHOSH, Scientist 'F' & Head (Met Engg.)

नई दिल्ली, 22 अगस्त, 2012

**का.आ. 2748.**—भारतीय मानक ल्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उप-विनियम (5) के अनुसरण में भारतीय मानक ल्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के अध्ययन नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

ल्यूरो

लाइसेंस संख्या	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा.	भाग	अनु.	वर्ष
सीएमएल							

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	एल 9946210	16-07-2012	मै. रतन चन्द्र ज्वाला नाथ लैवेल्ड शॉप नं. 17, प्रथम तल, गोल्ड सूक, सी. ल्याक, सुशान्त लोक 1, जिला गुडगांव-122 002 (हरियाणा)	चांदी एवं चांदी मिश्रधातुएं आभूषण/शिल्प वस्तुएं शुद्धता एवं मुहरांकन	2112	-	-	2003
2.	एल 9946816	19-07-2012	मै. जे.के. लक्ष्मी सीमेंट लि., गांव बाजितपुर, डाकघर हामरी, तहसील मातनहेल, जिला झज्जर-123 305 (हरियाणा)	पोर्टलैंड पोजोलाना सीमेंट भाग 1 अलाई एश आधारित	1489	01	-	1991
3	एल 9947010	20-07-2012	मै. सुद्ध गंगा बैवरेजिस, गाँव टिकली, ब्लॉक सोहना, जिला गुडगांव-122 002 (हरियाणा)	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक) मिनरल जल के अलावा)	14543	-	-	2004

[सं. सी एम डी /13 : 11]

एम. के. जैन, वैशानिक 'एफ' एवं प्रमुख

New Delhi, the 22nd August, 2012

**S.O. 2748.**—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

## SCHEDULE

Sl. No.	Licences No. CM/L	Grant Date	Name and Address of the Licensee	Title of the Standard	Sl. No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
01.	L-9946210	16-07-2012	M/s. Ratan Chand Jwala Nath Jewels, Shop No. 17, First Floor, Gold Souk, C Block, Sushant Lok 1, Distt. Gurgaon-122002, Haryana	Silver & Silver Alloys, Jewellery/Artefacts—Fineness and Marking	2112	—	—	2003
02.	L-9946816	19-07-2012	M/s. J. K. Lakshmi Cement Ltd., Village Bajitpur, P. O. Hamri, Tehsil Matanhail, Distt. Jhajjar-123305, Haryana	Portland Pozzolana Cement Part 1, Fly Ash Based	1489	01	—	1991
03.	L-9947010	20-07-2012	M/s. Sudh Ganga Beverages, Village Tikli, Block Sohna, Distt. Gurgaon-122101, Haryana	Packaged Drinking Water (Other than Packaged Natural Mineral water)	14543	—	—	2004

[ No. CMD/13 : 11 ]

M. K. JAIN, Scientist 'F' and Head

## कोयला मंत्रालय

नई दिल्ली, 23 अगस्त, 2012

का.आ. 2749.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त होने की संभावना है;

उक्त अनुसूची में वर्णित भूमि के अन्तर्गत आने वाले क्षेत्र के ब्यौरे रेखांक संख्या एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि/419 तारीख 21 जनवरी, 2012 का निरीक्षण कलेक्टर, सरगुजा (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि से कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति—

- (i) संपूर्ण भूमि या उसके किसी भाग के अर्जन या ऐसी भूमि में या उस पर के किन्हीं अधिकारों के अर्जन के प्रति आक्षेप कर सकेगा; या
- (ii) भूमि में के किसी हित के प्रतिकर या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का दावा कर सकेगा; या
- (iii) प्रभावहीन हो गई पूर्वेक्षण अनुज्ञितियों, खनन पट्टों के अधीन अर्जित किये जाने पर अधिकारों के लिये प्रतिकर प्राप्त कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (7) में निर्दिष्ट भूमि के कोरों से संग्रहण या अन्य खनिज नमूनों तथा उनके सम्यक् विश्लेषण को तथा किसी अन्य सुसंगत अभिलेख या सामग्रियों की निर्मित से संबंधित सभी मानचित्र चार्ट और अन्य दस्तावेज परिदृत कर सकेगा।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को भेजेंगे।

## अनुसूची

महान उत्तर उप ब्लाक और महान दक्षिण उप ब्लाक (महान 3 और 4) भटगांव क्षेत्र, जिला—सरगुजा (छत्तीसगढ़)  
[(रेखांक संख्या एसईसीएल)/बीएसपी/जीएम (पीएलजी)/भूमि/419 तारीख 21 जनवरी, 2012) (पूर्वक्षण के लिए अधिसूचित भूमि दर्शात हुए)]

## क. राजस्व भूमि :

## जिला--सरगुजा

क्र. सं.	ग्राम	ग्राम नम्बर	तहसील	क्षेत्र हेक्टर में	टिप्पणियां
1.	कनक नगर	04	प्रतापपुर	116.000	भाग
2.	सिलफिली	103	प्रतापपुर	427.000	भाग
3.	करसी	06	प्रतापपुर	48.000	भाग
4.	बुढाडांड	73	प्रतापपुर	585.000	संपूर्ण
5.	चउरा	35	राजपुर	372.000	भाग
6.	दुप्पी	237	राजपुर	434.000	संपूर्ण
7.	परसवारकला	36	राजपुर	365.000	भाग
8.	मरकाडांड	390	राजपुर	698.000	संपूर्ण
9.	नरसिंहपुर	251	राजपुर	409.000	भाग

कुल :-- 354.00 हेक्टर (लगभग) या 8534.83 एकड़ (लगभग)

## ख. राजस्व वन भूमि (सीजेजे/बीजेजे) :

## जिला--सरगुजा

क्र. सं.	ग्राम	ग्राम नम्बर	तहसील	क्षेत्र हेक्टर में	टिप्पणियां
1.	कनक नगर	04	प्रतापपुर	9.00	भाग
2.	सिलफिली	103	प्रतापपुर	32.00	भाग
3.	बुढाडांड	73	प्रतापपुर	46.00	संपूर्ण
4.	चउरा	35	राजपुर	27.00	भाग
5.	दुप्पी	237	राजपुर	32.00	संपूर्ण
6.	परसवारकला	36	राजपुर	26.00	भाग
7.	मरकाडांड	390	राजपुर	51.00	संपूर्ण
8.	नरसिंहपुर	251	राजपुर	30.00	भाग

कुल :-- 253.00 हेक्टर (लगभग) या 625.16 एकड़ (लगभग)

## ग. आरक्षित वन भूमि :

क्र. सं.	वन का प्रकार	उप संभाग	संभाग	क्षेत्र हेक्टर में	टिप्पणियां
1.	संरक्षित वन	प्रतापपुर	उत्तर सरगुजा	97.000	भाग

कुल :-- 97.00 हेक्टर (लगभग) या 239.69 एकड़ (लगभग)

कुल योग (क+ख+ग) :-- 3804.00 हेक्टर (लगभग)

या 9399.68 एकड़ (लगभग)

## सीमा वर्णन :-

क-ख रेखा ग्राम चउरा-परसवारकला के सम्मिलित सीमा में बिन्दु "क" से आरंभ होती है और ग्राम चउरा के मध्य भाग से होती हुई ग्राम चउरा-मदननगर के सम्मिलित सीमा में बिन्दु "ख" पर मिलती है।

ख-ग रेखा ग्राम चउरा-मदननगर के सम्मिलित सीमा से होकर ग्राम कनकनगर में प्रवेश करती है और ग्राम कनकनगर से होती हुई बिन्दु "ग" पर मिलती है।

ग-घ रेखा ग्राम कनकनगर, सिलफिली के मध्यम भाग से होती हुई बिन्दु "घ" पर मिलती है।

घ-ङ-च रेखा ग्राम सिलफिली, करसी के पूर्वी भाग, ग्राम करसी-बुढ़ाडांड के सम्मिलित सीमा, बिन्दु "ङ" से होती हुई ग्राम बुढ़ाडांड मरकाडांड के सम्मिलित सीमा में बिन्दु "च" पर मिलती है।

च-छ रेखा ग्राम मरकाडांड के पूर्वी भाग, ग्राम नरसिंहपुर के मध्य भाग, आरक्षित वन के उत्तरी भाग से होती हुई बिन्दु 'छ' पर मिलती है।

छ-ज रेखा आरक्षित वन के उत्तरी भाग, ग्राम नरसिंहपुर-धंधापुर के भागतः सम्मिलित सीमा, ग्राम परसवारकला के मध्य भाग से होती हुई बिन्दु 'ज' पर मिलती है।

ज-क रेखा ग्राम परसवारकला, आरक्षित वन के पश्चिमी भाग, ग्राम परसवारकला-चउरा के भागतः सम्मिलित सीमा से होती हुई आरंभिक बिन्दु 'क' पर मिलती है।

[ फा. सं. 43015/02/2012-पी.आर.आईडब्ल्यू-1 ]

ए. के. दास, अवर सचिव

## MINISTRY OF COAL

New Delhi, the 23rd August, 2012

S.O. 2749.—Whereas it appears to the Central Government that Coal is likely to be "obtained from the lands mentioned in the Schedule annexed hereto;

And whereas, the plan bearing number SECL/BSP/GM (PLG)/Land/419 dated the 21st January, 2012 containing details of the area of land described in the said schedule may be inspected at the office of the Collector, Surguja (Chhattisgarh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from lands described in the said schedule;

Any person interested in the land described in the said schedule may—

- object to the acquisition of the whole or any part of the land, or of any rights in or over such land; or
- claim an interest in compensation if the land or any rights in or over such land; or
- seek compensation for prospecting licences ceasing to have effect, rights under mining lease being acquired, and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and the preparation of any other relevant record or materials referred to in sub-section (7) of Section 13 of the said Act,

to the Officer-in-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within a period of ninety days from the date of publication of this notification in the Official Gazette.

## SCHEDULE

Mahan North Sub Block and Mahan South Sub Block (Mahan 3 & 4)  
Bhatgaon Area, District-Surguja (Chhattisgarh)

[(plan bearing number SECL/BSP/GM (PLG)/Land/419 dated the 21st January, 2012)]  
(Showing the land notified for prospecting).

## A. REVENUE LAND:

Sl. No.	Name of village	DISTRICT-SURGUJA			Remarks
		Village number	Tahsil	Area in hectares	
1.	Kanak Nagar	04	Pratappur	116.000	Part
2.	Silfili	103	Pratappur	427.000	Part
3.	Karsi	06	Pratappur	48.000	Part
4.	Budhadand	73	Pratappur	585.009	Full
5.	Chaura	35	Rajpur	372.000	Part

Name of village	Village number	Tahsil	Area in hectares	Remarks
6. Duppi	237	Rajpur	434.00	Full
7. Paraswarkala	36	Rajpur	365.00	Part
8. Markadand	390	Rajpur	698.00	Full
9. Narsinghpur	251	Rajpur	409.00	Part
Total: - 3454.00 hectares (approximately) or 8534.83 acres (approximately)				

**B. Revenue Forest Land (CJJ/BJJ):**

DISTRICT:SURGUJA

Sl. No.	Name of village	Village number	Tahsil	Area in hectares	Remarks
1.	Kanak Nagar	04	Pratappur	9.00	Part
2.	Silfili	103	Pratappur	52.00	Part
3.	Budhadand	73	Pratappur	46.00	Full
4.	Chaura	35	Rajpur	27.00	Part
5.	Duppi	237	Rajpur	32.00	Full
6.	Paraswarkala	36	Rajpur	26.00	Part
7.	Markadand	390	Rajpur	51.00	Full
8.	Narsinghpur	251	Rajpur	30.00	Part
Total: - 253.000 hectares (approximately) or 625.16 acres (approximately)					

**C. Reserve Forest Land :**

Sl. No.	Type of Forest	S/ Division	Division	Area in hectares	Remarks
1.	Protected Forest	Pratappur	North Surguja	97.00	Part
Total: - 97.00 hectares (approximately) or 239.69 acres (approximately)					
Grant Total (A+B+C) = 3804.00 hectares (approximately)					
		or 9399.68 acres (approximately)			

**BOUNDARY DESCRIPTION:—**

A-B Line starts from point 'A' on the common boundary of villages Chaura-Paraswarkala and passes through middle part of village Chaura and meets at point "B" on the common boundary of villages Chaura-Madan Nagar.

B-C Line passes along common boundary of villages Chaura-Madan Nagar then enter and passes through village Kanak Nagar and meets at Point "C".

C-D Line passes through middle part of village Kanak Nagar, Silfili and meets at Point "D".

D-E-F Line passes through eastern part of village Silfili, Karsi along partly common boundary of villages Karsi-Budhadand, point 'E' and meets at point F' on the common boundary of villages Budhadand-Markadand.

E-G Line passes through eastern part of village Markadand, middle part of village Narsinghpur, northern part of Reserve Forest and meets at Point "G".

G-H Line passes through northern part of Reserve Forest, along partly common boundary of villages Dhandhapur-Narsinghpur, through middle part of village Paraswarkala and meets at Point "H".

H-A Line passes through western part of village Paraswarkala, Reserve Forest, along partly common boundary of villages Chaura-Paraswarkala and meets at starting point "A".

[ F. No. 43015/02/2012 -PRIW-I]  
A. K. DAS, Under Secy.

नई दिल्ली, 23 अगस्त, 2012

का.आ. 2750. केन्द्रीय सरकार, को यह प्रतीत होता है कि, इससे उपायद अनुसूची में उल्लिखित भूमि में कोयला अधिग्राह्य होने की संभावना है;

उक्त अनुसूची में वर्णित भूमि के अन्तर्गत आने वाले क्षेत्र के ब्यौरे रेखांक संख्या एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि/423 तारीख 24 जनवरी, 2012 का निरीक्षण कलेक्टर, शहडोल (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, कार्डासिल हाऊस स्ट्रीट, कोलकाता-700001 के कार्यालय में या साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः अब केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि से कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति-

- (i) संपूर्ण भूमि या उसके किसी भाग के अर्जन या ऐसी भूमि में या उस पर के किन्हीं अधिकारों के अर्जन के प्रति आक्षेप कर सकेगा; या
- (ii) भूमि में को किसी हित के प्रतिकर या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का दावा कर सकेगा; या
- (iii) प्रभावहीन हो गई पूर्वेक्षण अनुज्ञितयों, खनन पट्टों के अधीन अर्जित किये जाने पर अधिकारों के लिये प्रतिकर प्राप्त कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (7) में निर्दिष्ट भूमि के कोरों से संग्रहण या अन्य खनिज नमूनों तथा उनके सम्पर्क विश्लेषण को तथा किसी अन्य सुसंगत अभिलेख या सामग्रियों की निर्मित से संबंधित सभी मानचित्र चार्ट और अन्य दस्तावेज परिदृश्य कर सकेगा।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को भेजेंगे।

### अनुसूची

केलमनिया ब्लॉक, सोहागपुर क्षेत्र,  
जिला-शहडोल (मध्यप्रदेश)

(रेखांक संख्या --एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि/423 तारीख 24 फरवरी, 2012)

(पूर्वेक्षण के लिए अधिसूचित भूमि दर्शाते हुए)

तहसील- सोहागपुर

जिला- शहडोल

क्र. सं.	ग्राम का नाम	पटवारी हल्का नम्बर	क्षेत्र हेक्टर में	टिप्पणियां
1.	अंतरा	87	120.210	भाग
2.	चदनियाकला	86	402.000	भाग
3.	चदनिया खुर्द	86	298.681	संपूर्ण
4.	जोधपुर	90	150.310	भाग
5.	सेमरिया	56	290.115	भाग
6.	हरा	98	150.271	भाग
7.	पठरा	101	120.310	भाग
8.	केलमनिया	99	638.005	भाग
9.	बंधवाबड़ा	86	210.120	भाग
10.	मिठौरी	97	40.210	भाग

कुल :-- 2420.232 हेक्टर (लगभग) या 5980.39 एकड़ (लगभग)

### सीमा वर्णन :--

क-ख रेखा ग्राम केलमनिया-बंधवाबड़ा के सम्मिलित सीमा में बिन्दु "क" से आरंभ होती है और ग्राम बंधवाबड़ा, ग्राम चदनियाकला के भागतः पश्चिमी सीमा से होती हुई ग्राम चदनियाकला के पश्चिमी सीमा में बिन्दु "ख" पर मिलती है।

ख-ग रेखा ग्राम चदनियाकला के उत्तरी भाग, ग्राम अंतरा और जोधपुर के दक्षिणी भाग से होती हुई ग्राम जोधपुर के पश्चिमी सीमा में बिन्दु "ग" पर मिलती है।

ग-घ रेखा ग्राम मिठौरी के पश्चिमी भाग, ग्राम सेमरिया, हरा के पूर्वी भाग से होती हुई ग्राम हरा के दक्षिणी सीमा में बिन्दु "घ" पर मिलती है।

घ-क रेखा ग्राम पठरा के भागतः पूर्वी सीमा, ग्राम पठरा के उत्तरी भाग, ग्राम केलमनिया के मध्य भाग से होती हुई आरंभिक बिन्दु "क" पर मिलती है।

[फा. सं. 43015/6/2012 पीआरआईडब्ल्यू-II]

ए.के. दास, अवर सचिव

New Delhi, the 23rd August, 2012

**S.O.2750.**—Whereas it appears to the Central Government that Coal is likely to be obtained from the lands mentioned in the Schedule annexed hereto;

And whereas, the plan bearing number SECL/BSP/GM (PLG)/LAND/423 dated the 24th February, 2012 containing details of the area of land described in the said schedule may be inspected at the office of the Collector, Shahdol (Madhya Pradesh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from lands described in the said schedule;

Any person interested in the land described in the said schedule may—

- (i) object to the acquisition of the whole or any part of the land, or of any rights in or over such land; or
- (ii) claim an interest in compensation if the land or any rights in or over such land; or
- (iii) seek compensation for prospecting licences ceasing to have effect, rights under mining lease being acquired, and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and the preparation of any other relevant record or materials referred to in sub-section (7) of Section 13 of the said Act,

to the Officer-in-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within a period of ninety days from the date of publication of this notification in the Official Gazette.

#### SCHEDULE

**Kelmaniya Block, Sohagpur Area,  
District-Shahdol, Madhya Pradesh**

(plan bearing number SECL/BSP/GM (PLG)/LAND/423 dated, the 24th February, 2012)

(Showing the land notified for prospecting).

TAHSIL - SOHAGPUR		DISTRICT - SHAH DOL		
Sl. No	Name of village	Patwari halka number	Area in hectares	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Antara	87	120.210	Part
2.	Chadniya kala	86	402.000	Part
3.	Chadniya khurd	86	298.681	Full
4.	Jodhpur	90	150.310	Part
5.	Semriya	56	290.115	Part
6.	Harra	98	150.271	Part
7.	Pathara	101	120.310	Part
8.	Kelmaniya	99	638.005	Part
9.	Bandhwabada	86	210.120	Part
10.	Mithouri	97	40.210	Part

Total :- 2420.232 hectares (approximately) or 5980.39 acres (approximately)

#### BOUNDARY DESCRIPTION:

- A-B Line starts from point 'A' on the common boundary of villages Kelmaniya-Bandhwabada and passes through village Bandhwabada, along partly western boundary of village Chadniyakala and meets at point 'B' on the western boundary of village Chadniyakala.
- B-C Line passes through northern part of village Chadniyakala, southern part of village Antara, Jodhpur and meets at point 'C' on the western boundary of village Jodhpur.
- C-D Line passes through western part of village Mithouri, eastern part of village Semriya, Harra and meets at point 'D' on the southern boundary of village Harra.
- D-A Line passes along partly eastern boundary of village Pathara, through northern part of village Pathara, middle part of village Kelmaniya and meets at starting point 'A'.

[ F. No. 43015/6/2012-PRIW-I ]

A. K. DAS, Under Secy.

आदेश

नई दिल्ली, 24 अगस्त, 2012

नई दिल्ली, 24 अप्रैल, 2012  
का.आ. 2751.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी की गई भारत सरकार के ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना संख्यांक का.आ. 1037 तारीख 21 अप्रैल, 1989, जिसके भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii) तारीख 6 मई, 1989 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुमूली में वर्णित भूमि और भूमि में या उस पर के सभी अधिकार (जिसे इसमें इसके पश्चात उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विलंगमों से मुक्त होकर, आर्थिक रूप में केंद्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि नार्दन कोलफील्ड्स लिमिटेड, सिंगरौली (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे. अनुपालन करने के लिए तैयार है;

तैयार है; अतः अब, केन्द्रीय सरकार, उक्त अधिनियम को धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह नियम दिल्ली के नियम द्वारा अनुधारित प्रतिकर, ब्याज, नुकसान और वैसी ही मदों की बाबत किए जाने की विधि दिल्ली के नियम द्वारा अनुधारित किया जाएगा।

- (1) सरकारी कंपनी, उक्त अधिनियम के उन्नत गए संदर्भों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) सरकारी कंपनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेश रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उसके संबंध में जैसे अपील आदि सभी विधिक कार्यवाहियों, की बावत् उपगत, सभी व्यय भी, इसी प्रकार सरकारी कंपनी द्वारा वहन किए जाएंगे;
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार और या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;
- (4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
- (5) सरकारी कंपनी, ऐसे निदेशों या शर्तों का, जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए गये अधिसूचित किए जाएं, पालन करेगी ।

फ़ा सं. 43015/21/1987-एलएसडब्ल्यू (पार्ट) पीआरआइडब्ल्यू ।।

ए. के. दास, अवर सचिव

## ORDER

New Delhi, the 24th August, 2012

S. O. 1751.—Whereas, on the publication of the notification of the Government of India, in the Ministry of Energy (Department of Coal) number S.O. 1037 dated the 21st April, 1989 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 6th May, 1989, issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and all rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act;

And whereas, the Central Government is satisfied that the Northern Coalfields Limited, Singrauli (hereinafter

referred to as the said Government company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby direct that the said lands and rights in or over the said lands so vested shall with effect from 6th May, 1989 instead of continuing to so vest in the Central Government, shall vest in the Government company, subject to the following terms and conditions, namely :—

- (1) The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) A Tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of, all legal proceedings like appeals, etc., for or in connection with the rights, in or over the said lands, so vesting, shall also be borne by the Government company;
- (3) The Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vesting;
- (4) The Government company shall have no power to transfer the said lands to any other persons without the prior approval of the Central Government; and
- (5) The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/21/1987-LSW (Part)/PRIW-II]

A. K. DAS, Under Secy.

### आदेश

नई दिल्ली, 29 अगस्त, 2012

का.आ. 2752.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त का.आ. 90(अ), तारीख 12 जनवरी, 2012, जो भारत के राजपत्र, भाग-II, खंड 3, उपखंड (ii), तारीख 19 जनवरी, 2012 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि में या उस पर के अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विलंगमों से मुक्त होकर, आत्यर्तिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का समाधान हो गया है, कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (महाराष्ट्र) जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निरेश देती है कि इस प्रकार निहित उक्त भूमि में और उस भूमि में या उस पर के सभी अधिकार तारीख 19 जनवरी, 2012 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात्

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारणा प्रतिकर, व्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए संदर्भों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) शर्त (1) के अधीन, सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में, जैसे अपील आदि सभी विधिक कार्यवाहियों, के बाबत उपगत, सभी व्यय भी, इसी प्रकार सरकारी कंपनी द्वारा वहन किए जाएंगे;

(3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हों कार्यवाहियों के संबंध में आवश्यक हो;

(4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि को किसी अन्य व्यक्ति को अंतरित करने की कोई शक्ति नहीं होगी; और

(5) सरकारी कंपनी, ऐसे निदेशों या शर्तों का पालन करेगी जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं, पालन करेगी।

[फा. सं. 43015/13/2009/पीआरआईडब्ल्यू-1]

ए. के. दास, अवर सचिव

### ORDER

New Delhi, the 29th August, 2012

**S.O. 2752.**—Whereas, on the publication of the notification of the Government of India, in the Ministry of Coal, number S.O. 90 (E), dated the 12th January, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 19th January, 2012, issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and all rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act;

And, whereas, the Central Government is satisfied that the Western Coalfields Limited, Nagpur (Maharashtra) (hereinafter referred to as the Government company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby directs that the said lands and all rights in or over such land so vested shall, with effect from the 19th January, 2012, instead of continuing so to vest in the Central Government, shall vest in the Government company, subject to the following terms and conditions, namely :—

- (1) The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) A Tribunal shall be constituted under Section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the Government company under condition (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said land so vested, shall also be borne by the Government company;
- (3) The Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;
- (4) The Government company shall have no power to transfer the said land and the rights to any other person without the prior approval of the Central Government; and
- (5) The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/13/2009/PRIW-1]

A. K. DAS, Under Secy.

## श्रम और रोजगार मंत्रालय

नई दिल्ली, 31 जुलाई, 2012

**का.आ. 2753.—**ओद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसारण में केन्द्रीय सरकार प्रिसिपल, रीजनल इंस्टीट्यूट आफ एजूकेशन के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण, अजमेर के पंचाट (संदर्भ संख्या सी.आई.टी.आर/4/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 31-7-2012 को प्राप्त हुआ था।

[सं. एल-42012/68/1997-आई आर (डी.यू.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

## MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 31st July, 2012

**S. O. 2753.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. CITR/4/1998) of the Central Government Industrial Tribunal, Ajmer as shown in the Annexure, in the Industrial Dispute between the Principal, Regional Institute of Education, Ajmer and their workman, which was received by the Central Government on 31-07-2012.

[No. L-42012/68/1997-IR (DU)]

SURENDRA KUMAR, Section Officer

## अनुबंध

श्रम न्यायालय एवं ओद्योगिक न्यायाधिकारण, अजमेर पीठासीन अधिकारी-श्री मनोज कुमार व्यास, आर.एच.जे.एस. प्रकरण संख्या-सी.आई.टी.आर. 4/1998

रेफरेंस संख्या-एल-42012/68/97/आईआर (डीयू) दिनांक 11-6-1998

श्री फूलचंद धोबी पुत्र श्री बाबूलाल निवासी म.नं. 13/3, राम भवन के सामने, ओमनगर, शास्त्रीनगर, अजमेर

-प्रार्थी

## बनाम

प्रिसिपल, रीजनल इंस्टीट्यूट आफ एजूकेशन, पुष्कर रोड, अजमेर

-अप्रार्थी

## उपस्थिति

प्रार्थी की ओर से : श्री राजेश खन्ना, अधिवक्ता  
अप्रार्थी की ओर से : श्री एल.के. सोगानी, अधिवक्ता

## अवार्ड

दिनांक 13-6-2012

1. श्रम विभाग, केंद्र सरकार द्वारा इस न्यायालय के अधिनियार्थ निम्न रेफरेंस प्रेषित किया है:-

2. “Whether the action of the management of Regional Institute of Education, Pushkar Road, Ajmer in terminating the services of Shri Phool Chand Ex. Security

Guard w.e.f. 27-11-96 is legal and justified? If not, to what relief the concerned workman is entitled for?”

3. नोटिस के उपरांत उभयपक्ष उपस्थित आये। प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत कर कहा गया कि प्रार्थी की नियुक्ति अप्रार्थी के अधीन सुरक्षा गार्ड के अस्थाई पद पर 10-10-95 को 750 रुपये प्रतिमाह पर हुई थी। अप्रार्थी ने दिनांक 19-9-95 के पत्र द्वारा प्रार्थी को स्थाई पद हेतु साक्षात्कार के लिए बुलाया। प्रार्थी अप्रार्थी के अधीन नियमित रूप से कार्यरत रहा है। अप्रार्थी ने दिनांक 8-12-95 को प्रार्थी को एक ज्ञापन दिया जिसमें उस पर आरोप लगाया कि वह पिछले एक सप्ताह से इस संस्थान में अपनी ड्यूटी से अनुपस्थित रहा है। जिसका उत्तर प्रार्थी ने मय रोगी प्रमाण-पत्र के प्रस्तुत किया। अप्रार्थी ने दिनांक 20-3-96 के पत्र द्वारा प्रार्थी पर झूटा आरोप लगाया कि वह ड्यूटी पर रहते हुए शाराब के नशे में पाया गया और प्रार्थी को अंतिम चेतावनी दी कि वह ऐसा नहीं करे जिसका मौखिक उत्तर प्रार्थी ने उसी समय दे दिया था कि उस पर लगाया गया आरोप गलत है। प्रार्थी का मेडिकल नहीं कराया गया। इसके पश्चात् अप्रार्थी ने दिनांक 4-6-96 के पत्र द्वारा प्रार्थी पर आरोप लगाया कि वह 2-5-96 से 23-5-96 तक अपनी ड्यूटी से बिना पूर्व सूचना के अनुपस्थित रहा। प्रार्थी ने पुनः अपना प्रार्थना पत्र रोगी प्रमाण-पत्र सहित प्रस्तुत किया कि वह अस्वस्थ होने के कारण कार्य पर उपस्थित नहीं हो सका तत्पश्चात् अप्रार्थी ने दिनांक 17-7-96 के पत्र द्वारा आरोप लगाया कि वह 30-9-96 से अवकाश पर चल रहा है जिसका स्पष्टीकरण भी प्रार्थी ने दिया। अप्रार्थी ने प्रार्थी के स्पष्टीकरण देने के बावजूद भी दिनांक 27-11-96 के पत्र द्वारा प्रार्थी की सेवा समाप्त कर दी जो अवैध व गलत है। प्रार्थी ने अपनी अवैध सेवा समाप्ति के आदेश के विरुद्ध स्पष्टीकरण प्रस्तुत किया जिसे भी प्रशासनिक अधिकारी ने अस्वीकार कर दिया। प्रार्थी अस्वस्थ होने के कारण कार्य से अनुपस्थित रहा था। प्रार्थी अस्थाई कर्मचारी था बिना कारण बताओ नोटिस दिये, बिना सुनवाई का अवसर दिये और बिना जांच किये जो आदेश दिया गया है, वह अवैध एवं गैर कानूनी है। प्रार्थी ने एक वर्ष में 240 दिन से अधिक कार्य किया है परंतु उसे ओद्योगिक विवाद अधिनियम के प्रावधानों के अंतर्गत नोटिस मुआवजा अथवा एक माह का वेतन नहीं दिया गया न कोई आरोप पत्र दिया गया न सुनवाई की गयी। अतः निवेदन किया कि प्रार्थी की सेवा समाप्ति के आदेश दिनांक 27-11-96 को निरस्त किया जावे तथा प्रार्थी को पुनः सभी लाभ परिलाभ सहित बहाल किया जावे।

4. अप्रार्थी की ओर से जवाब में यह कहा गया है कि प्रार्थी को किसी भी समय स्थाई नियुक्ति नहीं दी गयी। प्रार्थी अपनी ड्यूटी से अनुपस्थित होने का आदी था उसे स्पष्टीकरण देने का मौका दिया गया। प्रार्थी के नियुक्ति आदेश की शर्त सं. 3 (2) के अनुसार प्रार्थी परिवीक्षा अवधि में था जिसके अंतर्गत दिनांक 27-11-96 के आदेश द्वारा प्रार्थी की सेवायें समाप्त की गयी। प्रार्थी का कार्य परिवीक्षा अवधि में असंतोषजनक रहा। उसे लिखित में कई अवसर व्यवहार में परिवर्तन लाने हेतु दिये गये लेकिन प्रार्थी के व्यवहार में कई सुधार नहीं आया। परिवीक्षा अवधि में जांच किये जाने अथवा नोटिस दिये जाने या सुनवाई का मौका दिये जाने की कोई आवश्यकता नहीं है लेकिन इस प्रकरण में प्रार्थी को नोटिस भेजे गये जिनका समुचित

उत्तर किसी भी समय प्राप्त नहीं हुआ। अतः क्लेम खारिज करने का निवेदन किया।

5. पूर्व में इस प्रकरण में दिनांक 20-2-04 को अवार्ड पारित किया गया तथा प्रार्थी का क्लेम खारिज किया गया। दिनांक 20-2-04 के उक्त अवार्ड के विरुद्ध प्रार्थी ने माननीय उच्च न्यायालय में एस बी सिविल रिट याचिका सं.58/05 प्रस्तुत की जिसमें दिनांक 14-3-12 को माननीय उच्च न्यायालय द्वारा आदेश पारित करते हुए यह निर्देश दिये कि उक्त अवार्ड दिनांक 20-2-04 अपास्त किया जाता है तथा प्रकरण पुनः रिमांड किया जाता है तथा उभयपक्ष को साक्ष्य प्रस्तुत करने का अवसर देकर अवार्ड पारित करने का निर्देश भी प्रदान किया गया। माननीय उच्च न्यायालय के उक्त आदेश की अनुपालना में प्रकरण प्राप्त होने पर पुनः दिनांक 26-3-12 को दर्ज रजिस्टर किया गया। प्रार्थी की ओर से साक्ष्य में स्वयं के बयान कराए गए। अप्रार्थी की ओर से साक्ष्य में गवाह एन ए डब.। ईश्वरलाल के बयान करवाये गये। बहस सुनी गयी, पत्रावली का अवलोकन किया गया।

6. प्रार्थी ने बहस में यह कहा है कि उसकी सेवामुक्ति औद्योगिक विवाद अधिनियम के प्रावधानों के विपरीत की गयी है, जबकि उसने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य किया है। प्रार्थी को न तो एक माह का नोटिस दिया न ही उस अवधि का बेतन दिया गया और न ही छंटनी मुआवजा दिया गया। इस प्रकार धारा 25 एफ की पालना नहीं की गयी। इसके अलावा उस पर जो आरोप लगाये गये उनके संबंध में न तो कोई आरोप पत्र दिया गया न सुनवाई का मौका दिया। अतः उसका सेवा पृथक्करण आदेश अवैध व शून्य है। अपने तर्कों के समर्थन में प्रार्थी ने निम्नलिखित न्यायिक दृष्टांत प्रस्तुत किये गये, जिनका सम्पादन अवलोकन किया गया :-

1. 2009 लैब आई सी एन ओ सी 439
2. 2010 ए आई आर एस सी 683
3. 2001 डब एल एन । 468
4. 2012 लैब आई सी एन ओ सी राज 225
5. 2011 लैब आई सी एन ओ सी 3
6. 2011 लैब आई सी एन ओ सी 46
7. 1996 लैब आई सी पेज 1002
8. 2000 एस ए आर सिविल पेज 343

7. अप्रार्थी की ओर से बहस में यह कहा गया है कि प्रार्थी की नियुक्ति प्रदर्श डब.। के द्वारा सुरक्षा गार्ड के पद पर अस्थाई तौर पर की गयी थी। प्रदर्श डब.। की शर्त सं. 3 (2) के अनुसार प्रार्थी दो वर्ष के परिवीक्षा काल में था तथा परिवीक्षा अवधि के दौरान सेवा शर्तों के अनुसार प्रार्थी की सेवायें किसी भी समय बिना नोटिस दिये बिना कोई कारण बताये समाप्त की जा सकती थी। प्रार्थी का कार्य परिवीक्षा काल में संतोषजनक नहीं रहा। अतः दिनांक 27-11-96 के कार्यालय आदेश प्रदर्श डब.। से प्रार्थी की सेवायें सेवा शर्तों के अनुसार समाप्त की गयी। उक्त आदेश नियुक्ति पत्र के पैरा सं. 3 (2) की शर्त के अनुसार पारित किया गया था। अतः जांच किया

जाना अथवा नोटिस दिया जाना आवश्यक नहीं था। अतः क्लेम खारिज करने का निवेदन किया।

8. उपरोक्त विवाद के संदर्भ में साक्ष्य विवेचन किया गया। गवाह ए डब.। फूलचंद प्रार्थी ने मुख्य परीक्षा में क्लेम के तथ्यों की पुष्टि की है। जिरह में कहा है कि मुझे 10-10-95 के नियुक्ति पत्र के अलावा अन्य कोई नियुक्ति पत्र नहीं दिया जो प्रदर्श डब.। है। नियुक्ति पत्र मैंने पढ़ लिया था। यह सही है कि यह जानकारी थी कि नौकरी अस्थायी है। यह कहना गलत है कि मैंने बीमार होने पर कभी अप्रार्थी संस्थान में लिखित पत्र नहीं भेजा हो। यह कहना गलत है कि मेरे ड्यूटी पर शराब पीकर आने व अवकाश पर रहने बाबत कोई पत्र अप्रार्थी ने दिया हो। मुझे ध्यान नहीं कि मेरी नियुक्ति दो वर्ष के लिए परिवीक्षा पर की गयी हो। यह कहना गलत है कि मेरा कार्य संतोषप्रद नहीं होने के कारण अप्रार्थी संस्थान ने दो वर्ष के भीतर ही सेवा से पृथक कर दिया हो।

9. अप्रार्थी की ओर से गवाह एन ए डब.। ईश्वरलाल ने मुख्य परीक्षा में यह कहा है कि प्रार्थी को समय-समय पर चेतावनी दिये जाने के पश्चात भी उसकी कार्यशैली में कोई सुधार नहीं आया। प्रार्थी की सेवायें दिनांक 3-11-95 से 27-11-96 तक रही जिसमें 109 दिन की अनुपस्थिति प्रार्थी की रही। प्रार्थी की सेवायें परिवीक्षा अवधि में उसका कार्य संतोषजनक नहीं होने के कारण समाप्त की गयी। जिरह में कहा है कि प्रार्थी को 12-10-95 को नौकरी पर रखा उसने 12-10-95 से 27-11-95 तक कार्य किया था। यह कहना गलत है कि उसने इस अवधि में लगातार काम किया हो, इस बीच सौ दिन से भी ज्यादा अवकाश पर रहा था। प्रार्थी को समय-समय पर चेतावनियां दी थी। यह सही है कि प्रार्थी ने 11-12-95 को मेडिकल प्रमाण-पत्र प्रस्तुत किया था। प्रार्थी ने अनुपस्थित रहने के बाद हर बार प्रार्थी पत्र दिया कि मैं अब भविष्य में अनुपस्थित नहीं रहूँगा। उसने अप्रार्थी को अवकाश पर जाने से पूर्व कभी आवेदन नहीं दिये। प्रदर्श डब. 15 दिन से पहले एक माह का नोटिस नहीं दिया क्योंकि इसकी जरूरत नहीं थी। प्रदर्श डब. 18 में प्रार्थी के अनुपस्थित रहने का विवरण सही है। यह सही है कि हमने प्रदर्श डब. 6 प्रार्थी को दिया प्रार्थी ने लिखित माफी मांगी इसलिए मेडिकल नहीं करवाया। यह सही है कि पत्रावली पर भी लिखित माफीनामा पेश नहीं किया लेकिन मैं साथ लेकर आया हूँ।

10. उपरोक्त विवेचन के अनुसार प्रार्थी का मुख्य रूप से कथन यह है कि उसका सेवा समाप्ति आदेश बिना कारण बताओ नोटिस दिये, बिना सुनवाई का अवसर दिये एवं बिना जांच किये, किया गया है। अतः अवैध और शून्य है। इसके अलावा यह भी कहा गया है कि उसकी सेवा समाप्ति से पूर्व औद्योगिक विवाद अधिनियम की धारा 25 एफ व जी की पालना नहीं की गयी जबकि उसने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य लगातार किया था। अप्रार्थी की ओर से अपने जवाब में व साक्ष्य में मुख्य रूप से यह कहा गया है कि प्रार्थी की नियुक्ति दो वर्ष के लिए परिवीक्षा पर हुई थी तथा उसका कार्य संतोषजनक नहीं था। समय समय पर उसे चेतावनी देकर कार्यशैली में सुधार का अवसर दिया गया परंतु उसका कार्य संतोषजनक नहीं होने के कारण उसकी सेवायें नियुक्ति पत्र की शर्त

सं. 3 (11) के अनुसार समाप्त की गयी। विपक्षी का यह भी कथन है कि उक्त नियुक्ति पत्र में वर्णित शर्त जो नियमों के अंतर्गत अधिरोपित की गयी थी उसके अनुसार प्रार्थी की सेवामुक्ति से पूर्व विभागीय जांच की आवश्यकता नहीं थी और न ही धारा 25 एफ की पालना की आवश्यकता थी।

11. इस संबंध में मुख्य दस्तावेजी साक्ष्य प्रदर्श डब. 1 नियुक्ति पत्र तथा प्रदर्श डब. 15 प्रार्थी की सेवा समाप्ति का आदेश है। प्रदर्श डब. 1 के अनुसार प्रार्थी की नियुक्ति सिक्युरिटी गार्ड के अस्थाई पद पर वेतनमान 750 से 940 में दो वर्ष के परिवीक्षा काल पर की गयी थी। उक्त नियुक्ति पत्र में वर्णित पैरा सं. 2 के अनुसार अप्रार्थी संस्था नेशनल कार्डिसिल ऑफ एजुकेशनल रिसर्च एंड ट्रेनिंग (एन सी ई आर टी) का एक भाग है जिसमें सेवा कार्डिसिल के नियमों से शासित होती है। उक्त नियुक्ति पत्र के पैरा सं. 3 में निम्नलिखित सेवा शर्त उल्लिखित की गयी है :-

**The terms of appointment are as follows:**

(i) The appointment is temporary at present.  
(ii) He/she will be on probation for a period of two years from the date of his appointment, which may be extended at the discretion of the appointing authority. During the period of probation, the services can be terminated by the appointing authority without any notice and without any reason being assigned therefor.".....

12. इस प्रकार नियुक्ति पत्र प्रदर्श डब. 1 की शर्त सं. 3 (11) में यह उल्लिखित किया गया है कि प्रार्थी की नियुक्ति दो वर्ष के लिए परिवीक्षा पर होगी तथा परिवीक्षा अवधि नियुक्ति प्राधिकारी के द्वारा खड़ायी जा सकती है तथा परिवीक्षा अवधि के दौरान सेवायें नियुक्ति प्राधिकारी द्वारा बिना नोटिस दिये बिना कोई कारण बताये समाप्त की जा सकती है। इस प्रकार नियुक्ति पत्र में एन सी ई आर टी के नियमों के अनुसार शर्त सं. 3 (11) वर्णित की गयी है जिसमें नियुक्ति प्राधिकारी को प्रार्थी की सेवायें परिवीक्षा काल में बिना नोटिस दिये बिना कारण बताये समाप्त करने का अधिकार दिया गया है।

13. प्रार्थी की सेवा समाप्ति का आदेश प्रदर्श डब. 15 है जो निम्नलिखित प्रकार से है :-

**"In pursuance of the terms of appointment contained under para 3(ii) of the offer of appointment, issued vide this institute memorandum No. F. 2-2/9/2275-78 dated 10-10-1995, I, A.C. Banerjee, Principal, Regional Institute of Education, Ajmer hereby terminate the services of Shri Phool Chand, Security Guard of this Institute forthwith.**

He therefore, stands relieved w.e.f. 27-11-96(F.N.)"

14. उक्त कार्यालय आदेश के अवलोकन से यह प्रकट होता है कि प्रार्थी की सेवायें नियुक्ति पत्र की शर्त 3 (11) के अनुसार समाप्त की गयी है। उक्त सेवा समाप्ति के आदेश में कोई कारण उल्लिखित नहीं किया गया है। प्रार्थी की सेवा समाप्ति के उक्त आदेश से प्रार्थी पर कोई स्टिग्मा (Stigma) नहीं लगाया गया है। औद्योगिक विवाद अधिनियम की धारा 2 (oo) (बी बी) में यह कहा गया है कि छंटनी में निम्नलिखित शामिल नहीं है:-

"termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or"

15. इस प्रकार औद्योगिक विवाद अधिनियम के उक्त प्रावधान में यह उल्लिखित किया गया है कि यदि नियुक्ति किसी निश्चित अवधि के लिए हो अथवा नियुक्ति की सौकार्य में इस संबंध में कोई प्रावधान हो और उसके अंतर्गत समाप्ति की जाती हो तो वह छंटनी की परिभाषा में नहीं आता है। माननीय सर्वोच्च न्यायालय ने आरएसआरटीसी बनाम जाकिर हुसैन 2005 एल एल आर 1044 जिसे 2012 एल एल आर 46 पंजाब व हरियाणा उच्च न्यायालय में उधृत किया गया है उसके अनुसार माननीय सर्वोच्च न्यायालय ने निम्नलिखित अधिनियमीरित किया है :-

"In the instant case, the respondent was appointed as Conductor purely on ad hoc basis for two years. He was governed by the Standing Orders of the Rajasthan State Road Transport Corporation, Workshop Employees and also by the terms of appointment.....

The respondent was a temporary employee of the appellant Corporation on probation for a period of two years. His services were terminated by an order of termination simpliciter. The order was innocuous and without any stigma or evil consequences visiting him. Therefore, there was no requirement under the law to hold any enquiry before terminating the services....."

इस प्रकार उपरोक्त विवेचन के अनुसार यह स्पष्ट होता है कि प्रार्थी की नियुक्ति दो वर्ष के लिए परिवीक्षा काल पर की गयी थी तथा उसका सेवा समाप्ति का आदेश प्रदर्श डब. 15 उपरोक्त विवेचन के अनुसार टर्मिनेशन सिंपलीशीटर (Termination simpliciter) है तथा उक्त सेवा समाप्ति आदेश में प्रार्थी पर कोई स्टिग्मा (stigma) नहीं डाला गया है। यह तथ्य भी इस प्रकरण में महत्वपूर्ण है कि प्रार्थी की नियुक्ति से पूर्व निर्धारित प्रक्रिया की पालना की गयी थी। प्रदर्श डब. 2 पत्र के द्वारा प्रार्थी को जिला रोजगार कार्यालय से सुरक्षा गार्ड के लिए नाम प्राप्त होने पर साक्षात्कार के लिए बुलाया गया। इस प्रकार प्रार्थी की नियुक्ति से पूर्व प्रार्थी का नाम जिला रोजगार कार्यालय से प्राप्त होने पर नियमानुसार साक्षात्कार आदि प्रक्रिया की जाकर प्रार्थी को उक्त पद पर नियुक्ति दी गयी थी। अतः इन परिस्थितियों में नियुक्ति पत्र में वर्णित परिवीक्षा की शर्त महत्वपूर्ण एवं प्रभावी होना भी प्रकट होता है। अतः उपरोक्त विधिक स्थिति के अनुसार प्रार्थी की सेवा समाप्ति से पूर्व कोई विभागीय जांच करना आवश्यक नहीं था तथा प्रार्थी की सेवायें नियमों के अंतर्गत नियुक्ति पत्र की शर्त के अनुसार समाप्त किया जाना धारा 2 (oo) (बी बी) के प्रावधानों को देखते हुए विधि-सम्मत होना प्रकट होता है तथा प्रार्थी की सेवा समाप्ति उचित और वैध है, अतः तदनुसार विवाद का उत्तर दिया जाना न्यायोचित है।

### आदेश

फलतः प्रबंधन, रीजनल इंस्टीट्यूट ऑफ एजुकेशन, पुष्कर रोड, अजमेर द्वारा श्री फूलचंद भूतपूर्व सिक्युरिटी गार्ड की सेवायें

दिनांक 27-11-96 से समाप्त करना उचित एवं वैध है। अतः प्रार्थी अप्रार्थी से अथवा इस न्यायालय से किसी राहत को पाने का अधिकारी नहीं है।

मनोज सुखपाल व्यास, न्यायाधीश

नई दिल्ली, 31 जुलाई, 2012

**कानून 2754.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की वाया 17 के अनुसार में औद्योगिक सरकार जनरल मैनेजर, रिलाइंस कम्प्युनिकेशन, एल., अजमेर के उल्लंघन के संबंध नियोजकों और उनके उपर्योगकारी के बीच अनुबंध औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय, अजमेर के पंचाट (संस्कृत व्यास सी.आई.टी.आर/2/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 31-7-2012 को प्राप्त हुआ था।

[सं. एल-40012/53/2010-आई आर (डीषु)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 31st July, 2012

**S. O. 2754.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. CITR/2/11) of the Central Government Industrial Tribunal-cum-Labour Court, Ajmer as shown in the Annexure, in the Industrial dispute between the the General Manager, Relience Communication Ltd., Ajmer and their workman, which was received by the Central Government on 31-07-2012.

[No. L-40012/53/2010-IR (DU)]

SURENDRA KUMAR, Section Officer

अनुबंध

अम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर  
पीठासीन अधिकारी-श्री मनोज कुमार व्यास, आर.एच.जे.एस.  
प्रकरण संख्या-सी.आई.टी.आर. 2/11

रेफरेंस संख्या-एल-40012/53/2010 दिनांक 24-5-2011

श्री सुखपाल पुत्र श्री भोमा जी, जाति रावत, निवासी ग्राम पालग, जिला-अजमेर

-प्रार्थी

बनाम

- दी रीजनल मैनेजर, रिलायंस कम्प्युनिकेशन लिमिटेड, इंडस्ट्रियल एरिया, परबतपुरा, अजमेर
- दी रीजनल मैनेजर, रिलायंस कम्प्युनिकेशन लिमिटेड, डी-69, सरदार पटेल मार्ग, सी-स्कीम, जयपुर

-अप्रार्थीगण

उपस्थिति

प्रार्थी की ओर से	:	श्री जे. एल. शर्मा, अधिवक्ता
अप्रार्थी की ओर से	:	श्री मनोज माथुर, अधिवक्ता

अवार्ड

दिनांक 1-6-2012

1. श्रम विभाग, केंद्र सरकार द्वारा इस न्यायालय के अधि-निर्णयार्थ निम्न रेफरेंस प्रेषित किया है :-

2. “Whether the action of the management of Regional Manager, Reliance Communications Ltd., Ajmer in terminating the services of their workman Shri Sukhpal S/o. Shri Bhomaji w.e.f. 1-9-2007 is legal and justified? What relief the workman is entitled to?”

3. नोटिस के उपरान्त उभयपक्ष उपस्थित आये। प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत कर कहा गया कि वह दिनांक 1-4-05 से अप्रार्थी सं. 1 के नियंत्रण व निदेशन में हैल्पर के पद पर नियुक्त हुआ था तथा तप्तश्चात् निरंतर अप्रार्थी के अधीन कार्यरत इंजीनियर के साथ हैल्पर के पद पर रहते हुए कार्य किया। अप्रार्थी सं. 1 अप्रार्थी सं. 2 के अधीन है। प्रार्थी को अप्रार्थी सं. 1 द्वारा प्रतिमाह 2520 रुपये जिसमें से 420 रुपये पी एफ की राशि को काटने के पश्चात् कुल वेतन 2100 रुपये प्रतिमाह अदा किया जा रहा था। प्रार्थी ने अप्रार्थी सं. 1 के अधीन पूर्ण निष्ठा व लगन से काम किया। दिनांक 28-3-07 को रात्रि दस बजे से दिनांक 29-3-07 की सुबह आठ बजे तक की दियूटी पर था व इस दियूटी के दौरान जब वह अप्रार्थीगण के फैलड इंजीनियर श्री पंकज सक्सेना के निर्देशन के अनुसार वाहन सं. जे 01 टी 1032 में था तो दुर्घटना हुई व प्रार्थी के गंभीर चोटें आयी। प्रार्थी जवाहर लाल नेहरू अस्पताल, अजमेर में 29-3-07 से 3-5-07 तक भर्ती रहा। इसके बाद उसे दिनांक 3-5-07 को पंद्रह दिन बाद पुनः अस्पताल में दिखाने का कह कर डिस्चार्ज किया गया। उक्त दुर्घटना की पुलिस में रिपोर्ट श्री पंकज कुमार ने दर्ज करायी। प्रार्थी इलाज के बावजूद पूर्ण रूप से ठीक नहीं हुआ और डिस्चार्ज के बावजूद दिनांक 31-8-07 तक अपने घर बिस्तर पर रहा तथा इसके पश्चात् पूर्ण ठीक होने पर दिनांक 1-9-07 को अपनी दियूटी पर उपस्थित हुआ तो अप्रार्थी सं. 1 से उसे दियूटी पर लेने से इंकार कर दिया कि वह दिनांक 29-3-07 से दियूटी से अनुपस्थित रहा। इस कारण वह ऊपर के अधिकारियों से आवश्यक स्वीकृति प्राप्त होने पर ही प्रार्थी को दियूटी पर लिया जावेगा तथा प्रार्थी को दियूटी पर लेने की स्वीकृति का प्रकरण तैयार कर ऊपर के अधिकारियों को भेजा जा रहा है। उक्त वाहन जो दुर्घटनाग्रस्त हुआ वह अप्रार्थी सं. 1 के पद पर कार्यरत श्री परमेंद्र सिंह शेखावत की पली श्रीमती मीनाक्षी कंवर शेखावत का था। अतः साबित होता है कि जिस वाहन में दुर्घटना हुई वह अप्रार्थीगण का था। दिनांक 1-9-07 से प्रार्थी ने अप्रार्थीगण को कई बार दियूटी पर लेने का निवेदन किया परंतु उसे दियूटी पर नहीं लिया गया तथा बाद में कहा गया कि उसकी सेवायें दिनांक 1-9-07 से समाप्त कर दी गयी हैं। प्रार्थी को दिनांक 1-9-07 को सेवामुक्त किये जाने से पूर्व न तो कोई नोटिस दिया गया और न ही नोटिस वेतन का भुगतान किया गया। प्रार्थी की सेवामुक्त औद्योगिक विवाद अधिनियम की धारा 25 जी, 25 एच व नियम 77, 78 के भी उल्लंघन में हैं तथा धारा 25 एफ की भी पालना नहीं की गयी है। सेवामुक्त से पूर्व कोई आरोप पत्र नहीं दिया गया। प्रार्थी आज भी बेरोजगार है व उसकी आय का कोई साधन

नहीं है। अतः निवेदन किया कि प्रार्थी को दिनांक 1-9-07 से सेवामुक्ति करने की कार्यवाही को अवैध अनुचित घोषित किया जावे तथा प्रार्थी को पुनः सेवा में लेने, सेवायें निरंतर मानने व सभी लाभ-परिलाभ दिलाये जाने का आदेश पारित किया जावे।

4. अप्रार्थी की ओर से जवाब प्रस्तुत कर प्रारंभिक आपत्ति यह ली गयी कि प्रार्थी और अप्रार्थीगण के मध्य कर्मकार व नियोजक का संबंध नहीं है। इस कारण यह प्रकरण चलने योग्य नहीं है। प्रार्थी वास्तव में ठेकेदार मैसर्स नॉर्ड इंजीनियर्स के अधीन कार्य करता था। जिसका ठेकेदार विभिन्न कंपनियों से प्राप्त कार्य आदेशों की अनुपालना व कार्य संपादन हेतु आवश्यकतानुसार अलग-अलग जगहों पर भेजता था। ठेकेदार द्वारा ही प्रार्थी की हाजरी का रजिस्टर रखा जाता था तथा ठेकेदार के द्वारा ही मजदूरी दी जाती थी। प्रार्थी को अप्रार्थी कंपनी ने कोई नियुक्ति नहीं दी। यह गलत है कि प्रार्थी दिनांक 28-3-07 को रात्रि में ड्यूटी पर था व फील्ड इंजीनियर श्री पंकज सक्सेना के निर्देशानुसार कार्य करने हेतु जा रहा था। फील्ड इंजीनियर श्री पंकज सक्सेना ने रिपोर्ट में प्रार्थी को एक व्यक्ति के नाम से संबोधित किया है न कि हैल्पर या अपने मातहत कर्मकार के रूप में। गाड़ी ट्रैवल एजेंसी से संबोधित है। किसी निजी व्यक्ति या संस्थान की नहीं थी। प्रार्थी की सेवामुक्ति का कोई प्रश्न नहीं उठता है क्योंकि प्रार्थी अप्रार्थी के नियोजन में नहीं था। अप्रार्थीगण ने कभी उसे मजदूरी नहीं दी न हाजरी ली और न ही प्रार्थी के कार्यों का मूल्यांकन किया।

5. प्रार्थी की ओर से साक्ष्य में गवाह ए डब। स्वयं प्रार्थी सुखपाल के बयान कराये गये। अप्रार्थी की ओर से किसी गवाह के बयान नहीं कराये गये हैं। बहस सुनी गयी, पत्रावली का अवलोकन किया गया। बहस में प्रार्थी की ओर से यह कहा गया है कि उसे सेवामुक्ति किये जाने से पूर्व धारा 25एफ के अनुसार न तो नोटिस दिया गया न ही वेतन व छंटनी मुआवजे का भुगतान किया गया। इस आधार पर प्रार्थी को सेवामुक्ति अनुचित और अवैध है। बहस में यह भी कहा गया कि प्रार्थी ने अप्रार्थीगण के अधीन नियुक्ति व कार्यरत होने के प्रमाण में स्टेटमेंट ऑफ क्लेम व अपने शपथ-पत्र में कहा है तथा नियोजन के दौरान दुर्घटना को एफआईआर आदि की प्रति पेश की है। अप्रार्थी द्वारा प्रार्थी की साक्ष्य का कोई खंडन नहीं किया गया है। अतः प्रार्थी का प्रकरण स्वीकार किये जाने योग्य है। प्रार्थी अप्रार्थी के अधीन सीधे कार्यरत था व उनके निर्देशानुसार कार्य करता था। अप्रार्थी की कोई साक्ष्य उसके कथनों के समर्थन में नहीं है। इसके अलावा भी यदि प्रार्थी को ठेकेदार वो अधीन माना जावे तो भी वह अप्रार्थी का ही श्रमिक माना जावेग। अपने तर्कों के समर्थन में प्रार्थी की ओर से निम्नलिखित न्यायिक दृष्टिंत पेश किये गये, जिनका सम्पादन अवलोकन किया गया :-

1. 1999 डब एल सी 2 पेज 278
2. 2010 नैब आई सी 1039
3. 2010 सुग्रीम 5 पेज 88
4. 2010 लैब आई सी 1026
5. 2005 एल एल आर पेज 230
6. 2001 डब एल सी यू सी 607

7. 2005 लैब आई सी 2279
8. 1998 डब एल सी राज यू सी पेज 178
9. 2003 एफ एल आर 98 पेज 826
10. 2001 डब एल सी 2 पेज 128
11. 1963 एफ एल आर 7 पेज 253
12. 1999 एफ एल आर 81 1016
13. प्रकरण सं. 169/01 में माननीय सर्वोच्च न्यायालय में अपील में पारित आदेश दिनांक 8-8-05

6. अप्रार्थी की ओर से बहस में यह कहा गया है कि प्रार्थी उनके अधीन कार्यरत नहीं था। प्रार्थी को उन्होंने नियुक्ति नहीं दी न ही उसे वेतन अदा किया जाता था न ही उसकी हाजरी अप्रार्थी संस्थान में होती थी। बहस में यह कहा गया कि स्वयं प्रार्थी की साक्ष्य से उसका प्रकरण साबित नहीं होता है। जबकि प्रार्थी पर अपने क्लेम के तथ्यों को साक्ष्य में साबित करने का उत्तरदायित्व था। प्रार्थी की साक्ष्य इस संबंध में जो प्रस्तुत हुई है उससे यह साबित नहीं होता है कि प्रार्थी अप्रार्थी के अधीन नियुक्त था तथा उसने 240 दिन से अधिक कैलेंडर वर्ष में अप्रार्थी के अधीन काम किया हो। अतः क्लेम खारिज करने का निवेदन किया।

7. उद्दोक्त विवाद के संदर्भ में साक्ष्य का विवेचन किया गया। प्रार्थी ए डब। । न अपने मुख्य परीक्षा में अपने क्लेम के तथ्यों की पुष्टि करते हुए बयान दिये हैं तथा यह कहा है कि मेरी ओर से प्रकरण में प्रस्तुत दस्तावेजात् अधिसूचना प्रदर्श-1, अधिसूचना का लिफाफा प्रदर्श-2, समझौता अधिकारी के समक्ष प्रार्थीना पत्र प्रदर्श-3, जवाबुल जवाब प्रदर्श-4 व 5 नियोजन के दौरान दुर्घटना की एक्सरे रिपोर्ट प्रदर्श-6, चोट प्रतिवेदन प्रदर्श-7, डिस्चार्ज टिकट प्रदर्श-8 एफ आई आर मय संलग्न प्रदर्श-9 प्रस्तुत की गयी है।

8. जिरह में गवाह ने कहा है कि मेरी अप्रार्थी संस्थान में नियुक्ति सीधी हुई थी। मुझे नियुक्ति पत्र दिया था। इस पत्रावली पर नियुक्ति पत्र पेश नहीं किया है क्योंकि अप्रार्थी संस्थान ने वह पत्र वापस ले लिया था। मैं 2005 से नौकरी पर लगा था। मार्च 2007 तक काम किया। मुझे तनख्वाह नकद दी जाती थी। हाजरी भरी जाती थी। भुगतान के समय दस्तखत कराये जाते थे। यह सही है कि मैं प्रथम सूचना रिपोर्ट में अप्रार्थी संस्थान में काम करने की बात नहीं लिखी, लेकिन बयान में मैंने बताया था। प्रदर्श एम। पर मेरे हस्ताक्षर नहीं हैं। मैं नादर्न इंजीनियरिंग कंपनी के कर्मचारियों को जानता हूं लेकिन अधिकारियों को नहीं जानता। यह गलत है कि नादर्न इंजीनियरिंग के अधीन कार्यरत था।

9. इस प्रकरण में प्रार्थी का यह कथन रहा है कि वह सीधे अप्रार्थी संस्थान में नियुक्त हुआ था। नादर्न इंजीनियरिंग कंपनी के अंतर्गत ठेके पर काम नहीं करता था। प्रार्थी के ऊपर यह साबित करने का भार था कि वह अप्रार्थी संस्थान के अधीन कार्य करता था तथा उसने अपनी सेवामुक्ति से पूर्व एक कैलेंडर वर्ष में 240 दिन या इससे अधिक अप्रार्थी के अधीन कार्य किया था। इस संबंध में जो दस्तावेजी साक्ष्य अपने मौखिक कथनों के अलावा प्रार्थी ने प्रस्तुत की

है उसमें अधिसूचना की प्रति, समझौता अधिकारी के समक्ष प्रस्तुत होता है कि प्रार्थी अप्रार्थी संस्थान में कार्यरत रहा हो। प्रार्थी का मुख्य तर्क यह रहा है कि दिनांक 28-3-07 व 29-3-07 की मध्य रात्रि को जब वह अप्रार्थी के अधीन इयूटी पर था तो जिस वाहन में वह अप्रार्थी के फोल्ड इंजीनियरिंग के साथ जा रहा था वह वाहन दुर्घटनाग्रस्त हो गया तथा उसके चोटें आयी। इस आधार पर प्रार्थी का यह कथन है कि यह साबित होता है कि वह अप्रार्थी संस्थान में कार्यरत था। इस संबंध में प्रार्थी ने प्रदर्श-6 एक्सरे रिपोर्ट प्रदर्श-7 चोट प्रतिवेदन प्रदर्श-9, एफआई आर की प्रति इत्यादि पेश किये हैं। एक्सरे रिपोर्ट व चोट प्रतिवेदन से यह प्रमाणित नहीं होता है कि प्रार्थी अप्रार्थीगण के अधीन कार्यरत था। जहां तक प्रथम सूचना रिपोर्ट प्रदर्श-9 का प्रश्न है, उक्त एफ आई आर में यह लिखा गया है कि गाड़ी में व्यक्ति सुखपाल व डाइवर शेरसिंह रावत थे। प्रार्थी को उक्त एफ आई आर में अप्रार्थी संस्थान में कर्मकार होना उल्लिखित नहीं किया गया है बल्कि एक व्यक्ति के नाम से सुखपाल प्रार्थी को संबोधित किया गया है। अतः प्रार्थी का यह तर्क भी स्वीकार किये जाने योग्य नहीं है कि एफ आई आर के आधार पर यह साबित होता हो कि वह अप्रार्थी संस्थान में कार्य करता था। प्रार्थी की ओर से उपरोक्त विवेचन के अनुसार ऐसी कोई भी दस्तावेज साक्ष्य प्रस्तुत नहीं हुई है जिससे यह प्रकट होता हो कि प्रार्थी अप्रार्थी के नियोजन में था तथा उसने उनके अधीन एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य किया हो। इस संबंध में न तो उपस्थित पंजिका की प्रति, न ही वेतन भुगतान से संबंधित वाउचर्स और न ही कोई अन्य दस्तावेज साक्ष्य पत्रावली पर है जिससे प्रार्थी के उक्त कथन साबित माने जा सके। जो दस्तावेज दुर्घटना से संबंधित प्रार्थी ने प्रस्तुत किये हैं उनसे यह प्रकट नहीं होता है कि प्रार्थी अप्रार्थी के अधीन कार्यरत रहा हो। इस संबंध में प्रार्थी की जिरह भी महत्वपूर्ण है। जिरह में प्रार्थी ने एक तरफ तो यह कहा है कि उसे अप्रार्थी संस्थान में नियुक्ति पत्र दिया था परंतु वह नियुक्ति पत्र न्यायालय में पेश नहीं किया गया है। यदि वह नियुक्ति पत्र न्यायालय में प्रस्तुत कर दिया जाता तो यह माने जाने का एक आधार हो सकता था कि प्रार्थी की नियुक्ति अप्रार्थी संस्थान में हुई थी परंतु पत्रावली पर वह नियुक्ति पत्र प्रस्तुत नहीं किया गया है तथा यह कहा गया है कि अप्रार्थी संस्थान ने वह पत्र वापस ले लिया था परंतु प्रार्थी का उक्त कथन कि नियुक्ति पत्र अप्रार्थी संस्थान ने वापस ले लिया था। युक्तियुक्त प्रकट नहीं होता है। प्रार्थी ने न तो उपस्थिति बाबत और न ही वेतन भुगतान बाबत कोई दस्तावेज प्रस्तुत किये हैं और न ही उक्त दस्तावेज अप्रार्थी से तलब कराये हैं। यह सही है कि अप्रार्थी की ओर से कोई गवाह साक्ष्य में प्रस्तुत नहीं किया गया है, परंतु प्रार्थी मात्र इस आधार पर कोई लाभ प्राप्त करने का अधिकारी नहीं है, क्योंकि सर्वप्रथम यह दायित्व प्रार्थी पर था कि वह अपनी साक्ष्य से यह साबित करता कि वह अप्रार्थी कंपनी में नियोजित था तथा उसने एक कैलेंडर वर्ष में 240 दिन या इससे अधिक कार्य किया। इस संबंध में प्रार्थी यदि कोई युक्तियुक्त साक्ष्य प्रस्तुत करता तो उस स्थिति में अप्रार्थी का यह दायित्व हो जाता कि वह उसका खंडन अपनी साक्ष्य से करता, परंतु उपरोक्त विवेचन के अनुसार प्रार्थी की इस संबंध में कोई युक्तियुक्त साक्ष्य की रिकार्ड पर नहीं है। अतः प्रार्थी उसके

ऊपर जो साबित का भार था, वह प्रमाणित नहीं कर पाया है। प्रार्थी का यह भी कथन है कि यदि उसे ठेकेदार का कर्मचारी भी माना जाय तो भी वह नियोजक का ही कर्मचारी ही होगा, परंतु इस संबंध में प्रार्थी के कोई अभिवचन ही नहीं है कि वह ठेकेदार के मार्फत अप्रार्थी संस्थान में काम करता था तथा इस आधार पर उसे अप्रार्थी का कर्मकार माना जावे न की ठेकेदार का। और न ही इस संबंध में साक्ष्य में प्रार्थी ने कोई कथन किये हैं, बल्कि प्रार्थी का तो अभिवचनों में व साक्ष्य में यह कथन है कि उसकी नियुक्ति अप्रार्थी के अधीन थी तथा ठेकेदार से उसका कोई संबंध नहीं था। अतः जब इस संबंध में अप्रार्थी के कोई अभिवचन ही नहीं है और न ही कोई साक्ष्य है तो प्रार्थी का प्रकरण उसके पक्ष में साबित नहीं माना जा सकता। उपरोक्त तथ्यात्मक व विधिक विवेचन के अनुसार प्रार्थी अपनी साक्ष्य से यह साबित करने में असफल रहा है कि वह अप्रार्थी संस्थान के अधीन कार्यरत था तथा उसने एक कैलेंडर वर्ष 240 दिन से अधिक कार्य किया। प्रार्थी व अप्रार्थी के मध्य श्रमिक व नियोजक के संबंध भी इन परिस्थितियों में साबित नहीं होते हैं। अतः तदनुसार विवाद का उत्तर दिया जाना न्यायोचित है।

### आदेश

फलतः प्रबंधन, रीजनल मैनेजर, रिलायंस कम्युनिकेशन लि. अजमेर तथा प्रार्थी श्रमिक श्री सुखपाल पुत्र श्री भोमाजी के मध्य नियोजक एवं कर्मकार के संबंध प्रमाणित नहीं हैं। अतः दिनांक 1-9-2007 से प्रार्थी की सेवायें समाप्त किया जाना भी साबित नहीं होता है। अतः प्रार्थी श्रमिक अप्रार्थी से अथवा इस न्यायालय से किसी राहत हो पाने का हकदार नहीं है।

मनोज कुमार व्यास, न्यायाधीश

नई दिल्ली, 31 जुलाई, 2012

का.आ. 2755.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिविजनल इन्जीनियर, टेलीकाम, जनकपुरी, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोटा के पंचाट (संदर्भ संख्या 6/93) को प्रकाशित करती है जो केन्द्रीय सरकार को 31-7-2012 को प्राप्त हुआ था।

[सं. एल-40012/13/1992 आई आर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 31st July, 2012

S. O. 2755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 6/93) of Industrial Tribunal Kota as shown in the Annexure, in the Industrial dispute between the Divisional Engineer, Telecom, Janak Puri, New Delhi and their workman, which was received by the Central Government on 31-07-2012.

[No. L-40012/13/1992-IR (DU)]

SURENDRA KUMAR, Section Officer

## अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण,  
कोटा/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी-श्री प्रकाश चन्द्र पगारीया, आर.एच.जे.  
एस.

निर्देश प्रकरण क्रमांक: ओ.न्या./केन्द्रीय/6/93

दिनांक स्थापित: 22-1-93 व आजदायर दि. 10-10-06

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश  
सं. एल.40012/13/92 दि. 18-1-93

निर्देश/विवाद अन्तर्गत धारा 10(1) (घ)

औद्योगिक विवाद अधिनियम, 1947

## मध्य

केहर सिंह पुत्र जगराम

.....प्रार्थी श्रमिक

## एवं

डिविजनल इंजीनियर, टेलीकाम (रेलवे इलेक्ट्रिफिकेशन) बी-1/10,  
कम्यूनिटी सेन्टर, जनकपुरी, नई दिल्ली

.....अप्रार्थी

नियोजक

## उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री एन.के. तिवारी  
अप्रार्थी की ओर से प्रतिनिधि : श्री सी.बी. सोरल

अधिनिर्णय दिनांक : 8-6-2012

## अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के उक्त प्रासांगिक आदेश दि. 18-1-93 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त “अधिनियम” से सम्बोधित किया जातेगा) की धारा 10(1) (घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :-

“Whether the action of Telecom(RE) in terminating the services of Shri Kehar Singh S/o. Sh Jag Ram, Labour at Swai Madhopur and Kota w.e.f. 1-6-87 is legal and justified? If not, what relief the concerned workman is entitled to?”

2. यहां यह उल्लेख करना भी उचित होगा कि पूर्व में इसी विवाद के सम्बन्ध में इस न्यायाधिकरण द्वारा दि. 1-6-99 को अधिनिर्णय पारित कर दिया गया था परन्तु बाद में माननीय उच्च न्यायालय में अपील किये जाने पर उच्च न्यायालय के सिविल रिट पिटिशन सं. 936/2000 के आदेश दि. 11-9-2006 के द्वारा इस न्यायाधिकरण द्वारा पारित अधिनिर्णय को आपास्त करते हुए पुनः नये सिरे से पक्षकारों को सुनवाई का अवसर देकर अधिनिर्णय पारित करने का निर्देश दिया गया ।

3. प्रार्थी श्रमिक ने अपने क्लेम स्टेटमेंट में वर्णित किया कि

प्रार्थी को अक्टूबर, 85 में रेलवे इलेक्ट्रिफिकेशन प्रोजेक्ट, सवाईमाधोपुर में आकस्मिक श्रमिक के रूप में नियोजित किया, बाद में उसे कोटा स्थानान्तरित कर दिया गया एवं फरवरी, 87 से मई, 87 तक कोटा में कार्य किया, बाद में उसे 1-6-87 को दृश्यती पर नहीं लिया गया, उसकी सेवायें समाप्त कर दी गयी । सेवा समाप्त करने से पहले कोई नोटिस या नोटिस वेतन व मुआवजा भी नहीं दिया गया, अप्रार्थी द्वारा धारा 25-एफ आदि की पालना भी नहीं की गयी । अतः अपने क्लेम स्टेटमेंट के माध्यम से प्रार्थी ने उसके सेवा समाप्त आदेश को अवैध व अनुचित घोषित कर पिछले समस्त वेतन व परिलाभों सहित सेवा में बहाल किये जाने की मांग की ।

4. अप्रार्थी की ओर से इसका जवाब दिया गया जिसमें वर्णित किया गया कि अप्रार्थी, प्रार्थी का नियोजक नहीं है । अप्रार्थी के जो अलग-अलग प्रोजेक्ट होते हैं, उन प्रोजेक्ट की कार्य समाप्ति पर कोई आकस्मिक श्रमिक भी कार्यरत नहीं रहता है । अप्रार्थी का कार्य सार्वभौमिक कार्य है । प्रार्थी कर्मकार की परिभाषा में नहीं आता है । प्रार्थी ने सवाईमाधोपुर के सहायक अभियन्ता को पक्षकार नहीं बनाया है एवं ना ही अपना कोई स्थानान्तरण आदेश पेश किया है । अतः अपने जवाब के माध्यम से अप्रार्थी ने प्रार्थी का क्लेम स्टेटमेंट खारिज किये जाने की प्रार्थना की ।

5. माननीय उच्च न्यायालय द्वारा मामला पुनः नये सिरे से विचारित किये जाने हेतु भेजने के पश्चात् पक्षकारों द्वारा उत्तर-प्रत्युत्तर पेश किये गये एवं पत्रावली बाद में साक्ष्य प्रार्थी हेतु नियत की गयी । आज की सुनवाई तिथि पर प्रार्थी के प्रतिनिधि ने पैरवी हिदायत नहीं होना जाहिर किया, प्रार्थी भी उपस्थित नहीं है । अप्रार्थी के प्रतिनिधि ने भी प्रार्थी प्रतिनिधि द्वारा पैरवी हिदायत नहीं होने बाबत कोई आपत्ति नहीं की ।

6. जहां प्रार्थी श्रमिक उपस्थित नहीं है एवं प्रार्थी के प्रतिनिधि ने भी पैरवी हिदायत नहीं होना जाहिर कर दिया तो फिर मामला अदम हाजिरी व अदम पैरवी में निस्तारित होने योग्य है क्योंकि न्यायाधिकरण ना तो अनिश्चितकाल तक प्रार्थी के आने का इन्तजार कर सकता है एवं नाहीं न्यायाधिकरण अपनी स्वप्रेरणा से ऐसे मामले को चला सकता है । अतः हस्तगत मामले में भी प्रार्थी के उपस्थित नहीं होने व प्रार्थी के प्रतिनिधि द्वारा भी पैरवी हिदायत नहीं होने का अभियान किये जाने से प्रकरण अदम हाजिरी व अदम पैरवी में निस्तारित किये जाने योग्य है एवं प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं बनता है ।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने उक्त प्रासांगिक आदेश सं. एल. 40012/13/92-आईआर (डीयू) दि. 18-1-93 के जरिये सम्प्रेषित निर्देश (रेफ्रेन्स) को अधिनिर्णित कर इसी अनुरूप उत्तरित किया जाता है कि इस मामले में प्रार्थी के उपस्थित नहीं होने व प्रार्थी प्रतिनिधि द्वारा पैरवी हिदायत नहीं होना जाहिर कर दिये जाने से मामला अदम हाजिरी व अदम पैरवी में निस्तारित होने योग्य होने से प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है ।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 2 अगस्त, 2012

**का.आ. 2756.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 4/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 2-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/64/2008-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 2nd August, 2012

**S. O. 2756.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No.4/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneshwar as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 2-8-2012.

[No. L-12012/64/2008-IR (B-1)]

RAMESH SINGH, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri J. Srivastava,  
Presiding Officer, C.G.I.T. -cum-Labour  
Court, Bhubaneswar

#### INDUSTRIAL DISPUTE CASE NO. 4/2009

Date of Passing Award- 20th July, 2012

Between :

1. The Chief General Manager, State Bank of India, L.H.O., Pt. J.N. Marg, Bhubaneswar, Orissa.
2. The Branch Manager, State Bank of India, Chakpad Branch, At./Po. Dist. Phulbani, Orissa.

..... 1st Party-Managements

And

Their workman Shri Kamaraj Behera  
At. & Po. Chakpad, P.S. Tikabali  
Dist. Kandhamal, Orissa

..... 2nd Party-Workman

#### Appearances:

M/s. P.K. Mohanty, Manager Law	.... For the 1st Party- Management
Shri Kamaraj Behera Workman	.... For himself-2nd Party Workman

#### AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute existing between the employers in relation to the management of State Bank of India and their workman in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide its letter No. L- 12012/64/2008 -IR(B-1), dated 3-2-2009.

2. The dispute as referred is mentioned below.

Whether the action of the management of Chief General Manager, State Bank of India, Orissa Circle in terminating services of Sri Kamaraj Behera, ex-temporary messenger with effect from 1986 without complying provisions as required under the I.D. Act, is legal and justified? To what relief is the concerned workman entitled?

3. The 2nd Party-workman in pursuance of the letter of reference has filed his claim statement alleging that he joined the service of the 1st Party-Management No. 2 on 8-5-1984 on daily wage basis and worked as such till 30-11-1984 putting in 127 days of service. Thereafter he was appointed as a messenger in the Bank on temporary basis with effect from 1-12-1984 and worked as such till 31-5-1985 putting in 179 days of service. Thus he rendered continuous and uninterrupted service of 306 days in total with the Bank. He was further allowed to work as a messenger on temporary basis for a period of 90 days from 6-6-1986 to 31-9-1986. He throughout performed his duties most sincerely, diligently and to the utmost satisfaction of the higher authorities. However to his utter misfortune he was not allowed to work in the Bank with effect from 1-10-1986 without any intimation and assigning any cause. This action of the Management tantamounts to termination of service of the workman illegally, arbitrarily and without following the due process of law. No mandatory provisions as envisaged under the Industrial Disputes Act have been followed. Being aggrieved he approached the appropriate labour authority which started conciliation proceedings resulting in failure of the same. Hence in this reference the workman has prayed to declare the action of the management in terminating his services as unjustified and illegal and to reinstate him with full back wages and all other consequential service benefits.

4. The 1st Party-Management has filed its written statement and has stated that the claim is not maintainable being filed after lapse of more than 20 years. The termination of service of the disputant workman pursuant to the judgement of the Hon'ble High Court of Orissa after lapse of panel is not illegal and unjustified. The appointment of messengers in pursuance of different settlements arrived between the management of State Bank of India and All India State Bank Staff Federation have attained finality after the judgement of the Hon'ble High Court of Orissa in the case of Abhimanyu Mandal and Others-versus-State Bank of India on 15-5-1998 which was

upheld by the Hon'ble Supreme Court by rejecting the S.L.P. No. 3038/99 vide its order dated 16-7-1999. The panels prepared for filling up vacancies against permanent posts by daily wagers/adhoc employees expired on 31-3-1997. Feeling aggrieved by it some of the wait listed candidates filed writ petitions before the Hon'ble High Court of Orissa for regularization of their services in the Bank which were dismissed by a common judgement passed in W.P. (C) No. 2797/97 on 15-5-1998. S.L. P. filed against it before the Hon'ble Supreme Court was also dismissed. The disputant workman along with others had also filed O.J. C. No. 6784/95 before the Hon'ble High Court of Orissa in which the Hon'ble High Court passed an order dated 13-11-2006 directing the Opp. Party that if any representation is filed by the petitioners within four weeks then the Opp. Parties will consider the same in accordance with law within a period of four months. The disputant workman along with 10 others submitted a joint representation dated 24-11-2006 before the Chief General Manager, State Bank of India. The latter afforded a personal hearing to the petitioners and after consideration, rejected their representation vide order dated 26-3-2007. Thereafter the dispute was raised before the Assistant Labour Commissioner (Central) by the disputant workman and on failure of the conciliation proceedings a report was sent to the Government of India which over looking its earlier order dated 30-9-2008 not to refer the dispute in similar cases referred the present dispute for adjudication. The disputant workman was working on daily wage basis due to exigencies. A daily wage worker has no right to claim regular appointment. His engagement came to an end at the close of each day. He had also not worked continuously and uninterruptedly for 240 days preceding the date of his alleged termination. It is denied that the disputant workman had rendered a continuous and uninterrupted service of 306 days. There is no service record of daily wagers being maintained in the Bank. It is pertinent to mention that he was offered an opportunity for permanent appointment and was empanelled, but in the meantime the panel has expired. Therefore the question of reinstatement or re-employment does not arise. The action of the Management is neither illegal or arbitrary nor unjustified and actuated with malafide intention. There is absolutely no violation of any mandatory provisions of law as alleged by the disputant workman.

5. On the above pleadings of the parties, following issues were framed.

#### ISSUES

1. Whether the action of the Management of Chief General Manager, State Bank of India, Orissa Circle in terminating services of Shri Kamaraj Behera, ex-temporary Messenger w.e.f. 1986 without complying provisions as required under the I.D.

Act is legal and justified?

2. Whether the disputant-workman is entitled for appointment on the ground stated in his statement of claim?

3. To what relief the concerned workman is entitled?

6. The 2nd party-workman Shri Kamaraj Behera has filed his sworn affidavit in evidence and was cross examined on behalf of the 1st Party-Management. He has also relied upon documents marked as Ext.-1 to Ext.-8.

7. On the other hand the 1st Party-Management has examined Shri Dutikrushna Dash as M.W. No. 1 and relied on five documents marked Ext. A to E.

#### FINDINGS

##### ISSUE NO. 1

8. The allegation of the 2nd party-workman is that his services were terminated by the 1st Party-Management without complying the provisions of Industrial Disputes Act inspite of rendering 306 days continuous and uninterrupted service as a daily wage temporary messenger with effect from 8-5-1984 to 31-5-1985. His further allegation is that he had also worked as a messenger in the same branch i.e. Chakapada branch of State Bank of India from 6-6-1986 to 31-9-1986 for 90 days. Thereafter again his services were terminated. He has filed Ext.-1 to show that he had worked in the Chakapada branch of State Bank of India from 8-5-1984 to 30-11-1984 (excluding holidays). He has further filed Ext.-2 to show that he was appointed as a messenger in the Bank on temporary basis for a period of 180 days with effect from 1-12-1984. He has also filed Ext. 3 to 5 i.e. particulars of his service to show the days for which he worked in the State Bank of India, Chakapada branch. In Ext.-3 he is shown to have worked for 269 days in the years 1984 to 1986. In this document it has been shown that the disputant workman had worked for 31 days in the year 1984, 148 days in the year 1985 and 90 days in the year 1986. But in Ext.-4 he is shown to have worked for 127 days from 8-5-1984 to 30-11-1984 and for 179 days from 1-12-1984 to 31-5-1985. This document tallies with the case of the 2nd Party-Workman. In Ext.-5 he is shown to have worked for 31 days in the year 1984, 148 days in 1985 and 90 days in 1986 on temporary basis and for 127 days in 1984 on daily wage basis. From all these documents it is cumulatively found that the 2nd Party-Workman had worked for 127 days in 1984 as daily wage worker and for 31 days in 1984, 148 days in 1985 and 90 days in 1986 as temporary messenger in Chakapada Branch of State Bank of India. The cross examination of the disputant workman does not belie his statement made before the Tribunal but supports his case.

9. The Management Witness Shri Dutikrushna Dash has stated in his evidence that the workman has not worked for 240 days in any calendar year under the Management. He has denied that the workman has completed 306 days

of work from 8-5-1984 to 31-5-1995, but the year 1995 apparently seems to be wrong as the case of the disputant workman is that he had worked with the 1st Party-Management from 8-5-1984 to 31-5-1985. No document has been filed on behalf of the 1st Party-Management to disprove the documents filed by the 2nd Party-Workman marked as Ext.-1 to Ext.-5 which were issued by the Branch Manager of the concerned branch of the State Bank of India. Therefore it is fully established that the 2nd Party-Workman had worked with the 1st Party-Management from 8-5-1984 to 30-11-1984 on daily wage basis and from 1-12-1984 to 31-12-1985 on temporary basis on the post of Messenger. Thus the 2nd Party-Workman has successfully proved that he had worked with the Chakapada Branch of State Bank of India from 8-5-1984 to 31-5-1985 continuously and uninterruptedly excluding the holidays. He was again engaged on temporary basis in the year 1986 for 90 days with effect from 6-6-1986 to 30-9-1986 and thereafter he was not given any employment by the 1st Party-Management. His contention is that when he had rendered more than 240 days continuous service, his services cannot be terminated or dispensed with, without compliance of the provisions of Section 25-F of the Industrial Disputes Act, 1947.

10. Section 25-F of the Industrial Disputes Act says that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six month's; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the official Gazette).

11. The term "continuous service" has been defined under Section 25-B of the Act to mean uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than (i) one

hundred and innety days in the case of a workman employed below ground in a mine, and (ii) two hundred and forty days, if any other case.

12. In view of the above provisions of law it can certainly be said that the 2nd party-workman had put in more than 240 days work with the 1st Party-Management, but his case is not covered under Section 25-F of the aforesaid Act because the 2nd Party-Workman was last engaged as temporary Messenger on 6-6-1986 and worked till 30-9-1986 for a period of 90 days. As the period of one year is to be calculated from the date of his last termination i.e. from 30-9-1986 for calculating one year's continuous service the period of 12 calendar months from 1-10-1985 to 30-9-1986 has to be taken into account. The 2nd Party-Workman in his cross examination has clearly stated that "after May, 1985 I had not worked in the Bank till May, 1986". Thus he had worked only for 90 days in a period of 12 calendar months preceding the date of his termination from service i.e. till 30-9-1986. In this way he does not seem to be entitled to get benefit of Section 25-F of the Industrial Disputes Act and hence the action of the Chief General Manager, State Bank of India, Orissa Circle, in terminating the services of Shri Kamaraj Behera, ex-temporary messenger with effect from 1-10-1986 cannot be held to be illegal and unjustified. Issue No. 1 is decided accordingly against the 2nd Party-Workman.

#### Issue No. 2

13. Since the termination of service of the 2nd Party-Workman by the 1st Party-Management was not in violation of the provisions of Industrial Disputes Act he cannot be said to be entitled for appointment to the post of temporary messenger held by him before his termination. For appointment against the permanent post his name was empanelled, but the panel expired on 31-3-1997 and he could not get chance for appointment. He availed of legal recourse up to the High Court, but he could not find favour. The matter of appointment against permanent post of messenger reached its finality with the dismissal of the writ applications of the wait-listed candidates including the disputant by the Hon'ble High Court of Orissa being confirmed by the Hon'ble Supreme Court by dismissing the S.L.P. Hence the disputant-workman is neither entitled for reinstatement in service nor for fresh appointment. This issue is also decided against the 2nd Party-Workman.

#### Issue No. 3

14. On the findings recorded under Issue No. 1 and 2, I am of the view that the 2nd Party-Workman is not entitled to any relief claimed.

15. The reference is answered accordingly.

Dictated & Corrected by me.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 2 अगस्त, 2012

का.आ. 2757.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय रेल्यू बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों से द्वारा, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 25-2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-2012 को द्वारा हुआ था।

[सं. एल-12012/372/2001-आई आर (बी-1)]  
रमेश सिंह, डेक्स अधिकारी

New Delhi, the 2nd August, 2012

**S.O. 2757.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 2-8-2012

[No. L-12012/372/2001-IR (B-1)]

RAMESH SINGH, Deck Officer

#### ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,  
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/25/2002 Date: 19-7-2012

**Party No. 1 (a)** : The Chief General Manager, S.R.I.,  
Nariman Points, Mumbai-400021

(b) : The Asstt. General Manager,  
State Bank of India, Region-IV,  
Zonal Office, Kingsway, Nagpur-I.

(c) : The Chairman, State Bank of India,  
Central Office, Mumbai-400001.

#### Versus

**Party No. 2** : Shri Vasant S/o Punaji Ingle,  
R/o C/o Sh. K.S. Sawadhi, New State  
Bank Colony, Nagpur Road, Post.  
Gopuri, Distt. Wardha (MS).

#### AWARD

(Dated: 19th July, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India and their workman, Shri Vasant Punaji Ingle, for adjudication, as per letter No. L-12012/372/2001-IR (B-1) dated 6-2-1992, with the following schedule:—

"Whether the action of the management of State Bank of India through its Assistant General Manager, Region VI of Zonal Office, Kingsway, Nagpur in alleged termination of services of Shri Vasant Punaji Ingle, Ex Sub Staff without any notice w.e.f. 1-4-1998 is justified? If not, what relief the said workman is entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Vasant Punaji Ingle, ("the workman" in short), filed the statement of claim and the management of State Bank of India, ("Party No. 1" in short) filed its written statement.

3. The case of the workman as projected in the statement of claim is that he has studied up to SSC and he came to be appointed with Party No. 1 Bank as sub-staff and posted at Wardha and the nature of work performed by him was and is of permanent nature, but despite the same, he was continued only on temporary basis and he came to be terminated w.e.f. 1-4-1998 and he worked as messenger for 64 days, 75 days, 88 days, 62 days, 82 days, 86 days, 73 days, 48 days in the years 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995 and 1996 respectively and he also worked as messenger for 17 days from 2-4-1996 to 30-4-1996, for 25 days from 1-5-1996 to 31-5-1996, for 15 days from 1-6-1996 to 29-6-1996, 10 days from 3-7-1996 to 31-7-1996, for 14 days from 5-8-1996 to 31-8-1996, 19 days from 2-9-1996 to 30-9-1996, 27 days from 1-10-1996 to 31-10-1996, 18 days from 1-11-1996 to 30-11-1996, 30 days 2-12-1996 to 31-12-1996, 30 days from 1-1-1997 to 31-1-1997, 23 days from 1-2-1997 to 28-2-1997, 23 days from 1-3-1997 to 31-3-1997 and on 1-4-1997 and he was terminated from services and thereafter, he was provided with work intermittently and all the records in regard to his employment are with Party No. 1 and he had worked with Party No. 1 for more than 240 days in a period of 12 months and therefore, it was obligatory for Party No. 1 to comply with the provisions of Section 25-F and 25-G of the Act, but the provisions were not followed and therefore, his termination from services is illegal and arbitrary and he is entitled to be reinstated in service with continuity, back wages and all other consequential reliefs.

The further case of the workman is that the Party No. 1 Bank is an industry and as such, provisions of Section 25-H of the Act and Rule 79 of the Rules framed there under are applicable to Party No. 1 and it is obligatory upon the Party No. 1 to provide employment to him, whenever a vacancy is created and provisions of the Bombay Shops and Establishments Act, 1948, except provisions of Section 18 are applicable to Party No. 1 and accordingly, Industrial Employment (Standing Orders) Acts, 1946 is applicable to Party No. 1 and under the Model Standing Orders, Party No. 1 is under obligation to maintain a list of terminated employees and provide them employment whenever vacancy arise and the said statutory obligations are not

being followed by Party No. 1 and the matter of recruitment of terminated employees is governed by Section 25-H of the Act and his case for regular appointment is necessary to be considered as per settlements dated 27-10-1988 and 9-1-91 and his case was not considered by Party No. 1, inspite of repeated request and there are several vacancies of sub staff in different branches of Party No. 1 and employees with less number of working days have been considered and given appointments at Mumbai and Goa and the action of the Party No. 1 is violative of article 14 of the Constitution of India. It is further pleaded by the workman that he alongwith some other employees had filed Writ Petition No. 2331/98 before the Hon'ble High Court, Nagpur bench and the Hon'ble High Court by orders dated 12-10-2000, directed to raise the dispute under the Act, before the Conciliation Officer and to his knowledge, Party No. 1 has engaged fresh hands after terminating his services and several employees are still working on daily wages with Party No. 1 and he is therefore, entitled for reinstatement and as he has no independent source of income, he is entitled for back wages.

4. The Party No. 1 in their written statement have pleaded inter-alia that the workman was engaged purely in casual daily wage temporary capacity intermittently, without continuity of service, due to administrative exigencies as messenger and for doing sundry work, such as cleaning branch premises, hamali work and arrangement of record and stationary and the disengagement of the workman was done in view of the fact that he could not have been continued due to the settlement entered by the Bank with the recognized union of the Bank on 17-11-1987, which was modified/clarified vide settlements dated 16-7-1988, 27-10-1988, 9-1-1991 and 30-7-1996 and as per the settlement dated 30-7-1996, it was agreed that temporary employees and casual labourers would be given one time opportunity to be absorbed, under certain norms and for that purpose, panels would be prepared for filling up vacancies and it was also agreed that the panels for absorption, would be kept alive up to 31st March, 1997, after which, the said lists/panels would be lapsed and in response to the said settlement, the Bank gave an advertisement in the newspaper calling upon all the eligible temporary employees to apply for permanent appointment in the sub-ordinate cadre and as the workman was not eligible to apply for absorption, he was neither interviewed nor his name was empanelled and the panel prepared in pursuance of the said settlements the panels stood lapsed on 31-3-1997, therefore, after 31-3-1997, no temporary employee could have been absorbed in the service of the Bank.

It is further pleaded by the Party No. 1 that the workman did not work for 240 days in any calendar year or in the preceding 12 calendar months of the date of the disengagement i.e. 1-4-1998 and in fact, the workman had worked for 209 days during the preceding 12 months of 1-4-1998 and the workman was appointed on daily wages

basis temporarily by the branches, who had/have no authority to appoint any person in such category and such appointment is and was illegal/irregular and impermissible under the rules of the Bank and such illegality cannot be perpetuated for indefinite period and as the engagement of the workman was purely on temporary basis and the purpose for which he was engaged was completed, termination of his services was inevitable.

It is further pleaded by Party No. 1 that as the workman had not completed 240 days of work in the preceding 12 months of the date of disengagement or in any calendar year, it was not mandatory for the Bank to comply with the provisions of Sections 25-F and 25-G of the Act and the recruitment of the staff is done with the prescribed procedure and one cannot be permanently appointed or given regular appointment, only on the ground of working in the Bank on temporary basis and Bank has not considered juniors for appointment and there was no violation of any law or provisions of the Act and the workman is not entitled to any relief.

5. At this juncture, it is necessary to mention that on 11-6-2009, award had been passed by this Tribunal answering the reference in negative and dismissing the same. Being aggrieved by the award dated 11-6-2009, the workman approached the Hon'ble High Court, Nagpur Bench, Nagpur in Writ Petition no.297/2011 for redress. The Hon'ble High Court by order dated 7-12-2011 was pleased to pass the following orders:

“The learned counsel appearing for the parties submit that the award nowhere deals with the question of termination of the services of the petitioner w.e.f. 1-4-1998. The award deals with the question of permanency and regularization of the petitioner and that was not the question which was referred for adjudication, though it is urged that such was the claim made in the statement of claim.

Be that as it may, the Tribunal is required to answer the question referred to it. But, that has not been done. Hence, the impugned award cannot be sustained and the matter will have to be sent back to the Tribunal for deciding afresh.

In the result, the writ petition is allowed. The award dated 11-6-2009 passed by the Respondent No. 4—Central Government Industrial Tribunal, Nagpur, In Case No. CGIT/NGP/25/2002 is hereby quashed and set aside. The matter is sent back to the Central Government Industrial Tribunal, Nagpur to deal with the matter afresh in the light of the question referred to it.”

In view of the direction of the Hon'ble High Court as mentioned above, both the parties were given opportunity to make argument in support of their respective claims and also to file their respective written notes of argument.

7. In this case, the issue for consideration is as to whether the termination of the services of the workman by Party No.1 without any notice w.e.f. 1-4-1998 is justified.

8. Besides placing reliance on the documentary evidence, the workman has examined himself as a witness in support of his claims. The examination-in-chief of the workman is on affidavit. The workman in his examination-in-chief has reiterated the facts mentioned in the statement of claim. The workman has further proved the copies of the certificates granted by the authorities of the Bank regarding his working with the Bank as Exts. W-1 to W-6 and the copy of the Call letter to appear in the interview by the Bank as Ext. W-7. In his cross-examination, the workman has stated that no appointment letter was given by the Bank for any work and the permanent sub-staff sign the muster and he never signed on the muster and he worked as a temporary messenger and from 1-4-1997 to 1-4-1998, he had worked for 209 days. He has further stated that he was not taken by the Bank through Employment Exchange and there was no police verification or medical examination before his appointment and the Branch Manager appointed him in service and since 1-4-1998, he is serving in the canteen run by the Staff Welfare Committee and he is getting Rs. 700 as salary and he is maintaining the family.

9. The Party No. 1 have not adduced any oral evidence. Party No. 1 have relied on the five settlements, Exts. M-1 to M 5

10. At the time of argument, it was submitted by the learned advocate for the workman that the workman worked with Party No. 1 from 1988 onwards and his services were terminated on 1-4-1998 and before termination of his services, the mandatory provisions of Sections 25-F, 25-G and 25-H were not complied with and as such, the order of termination of services of the workman is illegal. It was further submitted by the learned advocate for the workman that as per Section 66 of the Bombay Shops and Establishments Act, 1948, it was necessary to issue notice by Party No. 1 to the workman, before termination of his service, as the workman had completed three months of service and as such, there was violation of Section 66 of Bombay Shops and Establishments Act. It was also submitted that it is clear from the oral evidence of the workman coupled with the documentary evidence that the workman had worked for more than 240 days in the preceding 12 months of the date of his termination and as there was violation of the provisions of Section 25-F of the Act, the workman is entitled for reinstatement in service with continuity and full back wages.

In support of such contentions, the learned advocate for the workman placed reliance on the decisions reported in 1999 II LLJ-14 (Administrator, Municipal Committee, Amloh Vs Presiding Officer, Labour Court, Patiala), 2011 (5) M.H.L.L. 503 (Devinder Singh Vs. Municipal Council, Saoner), 1992 I CLR-552 (Chaggan Lal Vs. Panchayat Samiti & another), 2002-II-LLJ-1000 (Prathama Bank Vs. Presiding Officer), 2010-88-FLR-508 (Deep Chandra Vs. State of U.P.).

11. Per contra, it was submitted by the learned advocate for the Party No. 1 that it is the settled position of

law that the burden of proof is on the workman that he had worked for 240 days in the preceding 12 calendar months of the date of his disengagement from service and in this case, the workman during his cross-examination has admitted that he was engaged intermittently as temporary messenger and he was terminated from services on 1-4-1998 and that he had worked for 209 days from 1-4-1997 to 1-4-1998 and as such, the workman is not entitled to any relief. In support of the contention, the learned advocate for the Party No. 1 placed reliance on the decisions reported in AIR 1966 SC-75 (Employee relating to Digwadih Colliery Vs. their workmen), AIR 2003 SC-38 (M/s. Esson Deinky Vs. Rajan Kumar) and AIR 2002 SC 1147 (Range Forest Officer Vs. S. T. Hadimani). It was further submitted by the learned advocate for the Party No. 1 that as the appointment of the workman was made by the Branch Manager, who had no authority to make such appointment and the appointment of the workman was not made in accordance with the rules of recruitment, the same is illegal and as such, the workman is not entitled to any relief.

In support of such submission, reliance was placed on the decisions reported in A.I.R.-2006 SC-1806 (Secretary, State of Karnataka vs. Umadevi). It was further submitted by the learned advocate for the Party No. 1 that assuming but not admitting that the workman is entitled to any relief, then at the most, he is entitled to the amount of retrenchment compensation and the wages for a period of one month in lieu of notice as provided Vs. 25- F of the Act. In support of such submission, the learned advocate of the Party No. 1 placed reliance on the decision reported In (2007) 9 SCC-748 (M.P. Administration Vs. Tribhuban).

12. Keeping in view the principles enunciated by the Hon'ble Courts in the decisions cited by the learned advocates for the parties, now, the present case in hand is to be considered.

On perusal of the materials on record including the evidence adduced by the parties, it is found that the engagement of the workman by Party No. 1 was purely in temporary capacity and such employment was not a regular employment and the engagement was not made in accordance with the rules of recruitment.

The workman has claimed that he had completed 240 days of work in the preceding 12 calendar months of the date of termination of his services. However, the Party No. 1 have denied such claim. So : the burden to prove that in fact he had worked for 240 days in the preceding 12 months of 1-4-1998 is on the workman.

To discharge the burden of proof, the workman besides his own oral evidence has relied on the documents. Exts. W-1 to W - 7. Exts. W - 1 and W - 2, are copies of the certificates granted by the authorities of the Bank regarding the number of working days of the workman in between

1-4-1996 to 31-3-1997 and according to Exts. W-1 and W-2, the workman worked for 251 days during that period. However, no document has been filed by the workman to show that he worked for 240 days during the preceding 12 calendar months of 1-4-1998, the date of his termination. The evidence of the workman on affidavit in that respect is not sufficient to discharge the burden. Moreover, the workman has admitted.

in his cross-examination that he worked for 209 days from 1-4-1997 to 1-4-1998. Hence, it is found that the workman has failed to discharge the burden which was on him. As the workman did not work for 240 days in the preceding 12 months of 1-4-1998, the provisions of Section 25-F are not applicable to his case and the workman is not entitled to any relief. Hence, it is ordered:—

#### ORDER

The action of the management of State Bank of India through its Assistant General Manager, Region VI of Zonal Office, Kingsway Nagpur in alleged termination of services of Shri Vasant Punaji Ingle, Ex Sub Staff without any notice w.e.f. 1-4-1998 is justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 3 अगस्त, 2012

**का.आ. 2758.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमानडे, सैन्ट्रल आरडेनेस डिपो, आगरा कैन्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के प्रत्याप (संदर्भ संख्या 107/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।**

[सं. एल-14012/35/1993-आई आर (डीयू)]  
सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd August, 2012

**S.O. 2758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 107/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the Commandant, Central Ordnance Depot, Agra Cantt and their workman, which was received by the Central Government on 3-8-2012**

[No. L-14012/35/1993-IR (DU)]

SURENDRA KUMAR, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW PRESENT

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 107/2004

Ref. No. L-14012/35/93-IR (DU) dated: 15-10-2004

#### BETWEEN

The Secretary,  
C.O.D., Chaturth Shreni Mazdoor Union,  
39-Defence Estate,  
Bundoo Katra,  
Agra  
(Espousing cause of Shri D.P. Singh)

#### AND

The Commandant  
Central Ordnance Depot  
Agra Cantt

#### AWARD

1. By order No. L-14012/35/93-IR (DU) dated 15-10-2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Secretary, C.O.D., Chaturth Shreni Mazdoor Union, 39-Defence Estate, Bundoo Katra, Agra and the Commandant, Central Ordnance Depot, Agra Cantt, for adjudication.

2. The reference under adjudication is:

“Whether the action of the Management of Central Ordnance Depot, Agra in Dismissing Shri D.P. Singh from service w.e.f. 19-6-93 is just, Fair and Legal? if not, to what relief is the workman entitled?”

3. It is admitted case of the parties that the workman, D.P. Singh was working as Store Supdt. and he was served upon a major charge sheet dated 13-10-1992 for alleged misconduct of unauthorized absence and was dismissed from services vide impugned order dated 27-5-1993 after conducting disciplinary proceeding against him

4. The workman has pleaded in his statement of claim that there was flagrant denial of natural justice to him in the course of the enquiry as he was neither given proper opportunity to defend himself nor the opposite party observed the Rules under CCS (CCA) Rules, 1965 while conducting enquiry against him; and also, that the findings of the Enquiry Officer are perverse; and accordingly, prayed that the enquiry proceedings may be vitiated and the punishment be set aside.

5. Per contra, the management of the Bank, by filing its written statement, defended its stand and submitted

that the enquiry conducted by the Inquiry Officer was in compliance with the principles of natural justice and that of Rules under CCS (CCA) Rules, 1965; and the workman was given all reasonable opportunity to defend himself and also, that the findings of the Enquiry Officer are just and based on the evidence that come before him during the enquiry.

6. It is also pertinent to mention that matter is relating to dismissal from services, therefore, preliminary issue whether the enquiry conducted was fair and proper was to be framed but no such issue was framed. Moreover, it reveals from the proceedings of the case that on 7-11-2006, the then learned Presiding Officer passed the following orders:

**“Rejoined may be filed by 24-11-2006. Parties may admit or deny the documents filed by each other on the date fixed. Fixed 15-1-2007 for evidence of parties. Parties may lead evidence on the case as whole, however, the findings on the Departmental Enquiry shall be decided preliminarily.”**

Hence, in view of above, the learned Presiding Officer took the case to decide the following preliminary issue:

1. Whether the departmental enquiry conducted against the workman was fair and proper.”

Accordingly, after hearing the parties and giving the opportunity to lead their evidence and cross-examining the witnesses of each other, following orders vide dated 12-3-2010 were passed by this Tribunal on the preliminary issue:

“24. An enquiry is to be conducted against any person giving strict adherence to the statutory provisions & principle of natural justice. An Inquiry Officer is a quasi-judicial authority & should perform his function fairly & reasonably. In 2009 I SSC (L&S) 394, Hon'ble Apex Court has observed that if disciplinary proceedings have not been concluded fairly, presumption can be drawn that this caused prejudice to the charged employee.

25. The ex parte proceedings against the workman without ascertaining the actual service of communication said to be sent telegraphically and by Registered A/D upon is also violative of principle of natural justice.

26. Thus, in view of above discussions the departmental enquiry conducted against the workman was not fair and proper.

29. Since in present case the enquiry conducted against the workman was not fair & proper, therefore, in the light of principle laid down by the Hon'ble Apex Court, the opposite party is directed to file the list of documents relied upon to prove the charge against the workman along with list of witnesses on 20-4-2010”.

7. In view of order dated 12-3-2010, the burden of proof shifted upon the management and it was incumbent upon the management to lead fresh evidence before this Tribunal to prove the charges levelled against the workman vide charge sheet dated 13-10-92; but the management did not bother to do so even it did not put up its appearance even for a single occasion after passing of preliminary order dated 12-3-2010 till date.

8. In the order dated 12-3-2010, the management was directed to file the list of documents, relied upon, to prove the charges against the workman along with the list of witness on 20-4-2010; but the management did not turn up to comply the directions; and accordingly, next date 6-7-2010 was fixed. The management did not turn up on 6-7-2010, 20-8-2010, 4-10-2010, 2-11-2010, 20-12-2010, 6-1-2011, 14-2-2011, 14-3-2011, 13-5-2011, 15-7-2011, 9-9-2011, 31-11-2011, 23-12-2011 for filing list documents and witnesses. It is pertinent to mention here that the workman was present on all, except for two of above mentioned dates; whereas the management remained absent on almost all the dates; without moving any application or adjournment for its absence. On 13-2-2012, when the management neither turned up to comply with the orders dated 12-3-2010 nor moved any application for time, to comply the orders dated 12-3-2010, the case was fixed for 10-4-2012 for further orders. On 10-4-2012 the management again failed to appear before this Tribunal and when the workman was asked to lead its evidence it stated that he will not adduce any evidence; and accordingly, 28-5-2012 was fixed for argument. The management again refrained from the proceedings on 28-5-2012 and 29-6-2012. Hence, the case was reserved for award after hearing the workman only, keeping in view deliberate reluctance of the management to contest their case and long pendency of the case since 2004.

9. Heard the workman and perused entire evidence on record.

10. Undisputedly, the workman was working as Store Supdt. with the opposite party when he was served with a charge sheet dated 13-10-92 under Rule 14 of CCS (CCA) Rules, 1965 by the Officer-in-Charge AOC (Records) for alleged misconduct of unauthorized absence and not complying with the order of posting. The management after conducting the enquiry found the charges proved against the workman and the disciplinary authority inflicted punishment of dismissal from service vide order dated 27-5-1993.

11. The parties had rival contentions over the genuineness of the enquiry as well on the fairness of the enquiry report; and accordingly, this Tribunal vide its order dated 7-11-2006 decided to take up the issue of fairness of departmental enquiry preliminarily; and accordingly the parties were afforded opportunity to lead their evidence in support of their respective stand on the enquiry and report of the enquiry officer, which was well availed by the parties

and after hearing the parties over preliminary issue the then Presiding Officer found that the departmental enquiry held by the management was not conducted in accordance with the principles of natural justice; and accordingly, enquiry was vitiated vide its order dated 12-3-2010.

12. Although the management did not take plea that in case the Tribunal hold that the enquiry was not fair and proper for any reason whatsoever, the management reserves right to prove the charges on merit by adducing evidence before this Tribunal itself, even then the management was afforded opportunity to prove its charges before this Tribunal by leading fresh evidence in view of pronouncement of Hon'ble Apex Court in *Neeta Kaplish Vs. Presiding Officer, Labour Court & another* 1999 SCC (L&S) 302; wherein it held that:

“..... Where enquiry has been found to be defective Tribunal can call upon the management or the employer to justify action taken against the workman & to show by fresh evidence that termination was proper .....

13. After passing the order on preliminary issues vide dated 12-3-2010, vitiating the departmental enquiry, more than a dozen dates were fixed in time a span of more than two years but the management did not bother about filing of any document or list of evidence in support of its charges, even it did not bother to appear before this Tribunal and file any application seeking time or whatsoever. This amounts to a negligent attitude of the management in contesting their case. When the management failed to file any evidence in support of its charge sheet, there left no option but to proceed further; accordingly, the workman was asked to lead its evidence and on his denial the case was fixed for argument. The management again remained reluctant either to get the order recalled or to forward arguments or even at least to put up its appearance before this Tribunal.

14. It is well appreciated that when the penalty inflicted upon the workman, consequent to a departmental enquiry, is under judicial scrutiny the onus lies upon the workman to prove before the trial court that the departmental proceedings were conducted in violation of principles of natural justice and he was not given sufficient opportunities to protect himself; and also, that the findings of the Inquiry Officer were perverse. In case the workman succeeds to prove that the departmental proceedings were not in accordance with the principles of natural justice or that he was denied proper opportunities to defend himself, leads to vitiation of enquiry by the competent court of law, then as per settled law in 1999 SCC (L&S) 302 *Neeta Kaplish Vs. Presiding Officer, Labour Court & another* (supra) it was incumbent upon the management to lead evidence before the Court in support of its charges.

15. In the instant case it was the case of the workman that the there was flagrant denial of natural justice to him during the course of the enquiry and he was not afforded proper opportunity to defend himself and also that this

caused prejudice to the workman; accordingly, it was contended that the action of the management in dismissing him from the services w.e.f. 19-6-1993 was unjust and unfair. On the other hand the management of the Central Ordnance Depot defended the veracity of the enquiry.

Both the parties led evidence in support of their rival contentions and after hearing the parties this Tribunal vide its order dated 12-3-2010 found that the enquiry was not fair and proper and accordingly vitiated the same, giving the management a chance to prove their charges before this Tribunal but the management failed to do so in spite of ample opportunity being provided and a time of more than two years was provided to them. It is settled law that when a party invokes jurisdiction of the court, then initial burden lies upon it to prove its case before the court and the party failing to do so is liable to fall.

16. Thus, in view of discussions made above and failure of the management of the Central Ordnance Depot to file fresh evidence in support of their charge sheet, in compliance of the order of this Tribunal dated 12-3-2010 till 13-2-2012 i.e for more than two years, makes it imperative that the penalty order dated 27-5-1993 be set aside. Hence, the impugned order dated 25-7-2000 of the Disciplinary Authority, dismissing the workman, D. P. Singh from services is set aside, as I come to the conclusion that the action of the management of the Central Ordnance Depot in dismissing the workman from the services w.e.f. 19-6-1993 is unjust and unfair and he is entitled to be reinstated with continuity in service with full back wages. Further, as per submissions of the workman since he has attained the age of superannuation; hence, he would be entitled for full back wages for the period he had not attained the age of superannuation and there after shall be entitled for all retiral benefits, permissible under Rules. In case the management of Central Ordnance Depot fails to comply with the directions, within a period of four weeks from the date of publication of this award, the workman shall also be entitled to simple interest @ 8% per annum.

17. Award as above

LUCKNOW : 4-7-2012.

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 3 अगस्त, 2012

क्र.आ. 2759.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जरूरत मैनेजर, टेलीकाम, बी एस एल, फिरोजपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोर्ट न. II चंडीगढ़ के पंचाट (संदर्भ संख्या 683 और 684/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-40012/74 और 76/2002 आई आर (डीयू)  
सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd August, 2012

**S.O. 2759.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 683 & 684/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the General Manager, Telecom, BSNL, Ferozepur and their workman which was received by the Central Government on 3-8-2012.

[No. L-40012/74 & 76/2002-IR (DU)]

SURENDRA KUMAR, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri A.K. Rastogi, Presiding Officer

#### 1. Case No. I.D. 683/2005

Registered on 25-8-2005

Shri Ramesh Singh, C/o N.K. Jeet, 27349, Lal Singh Basti Road, Bhatinda.

#### 2. Case No. I.D. 684/2005

Registered on 25-8-2005

Sh. Nachhattar Singh, C/o Sh. N.K. Jeet, 27349, Lal Singh Basti Road, Bhatinda. ... Petitioners

#### Versus

The General Manager, Telecom, BSNL, Ferozepur

... Respondent

#### APPEARANCES

For the workman Sh. N.K. Jeet, A.R.

For the Management Sh. G.C. Babbar, Advocate

#### AWARD

Passed on June 8, 2012

The Central Government vide Notification No. L-40012/76/2002-IR(DU) and No. L-40012/74/2002-IR(DU) both Dated 13-9-2002, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

#### ID No.683/2005

"Whether the action of the management of General Manager, Telecom, Ferozepur in terminating the services of Sh. Ramesh Singh, S/o Sh. Gopal Singh workman w. e. f. 12-11-2000 is just and legal? If not, to what relief the workman is entitled to and from which date?"

#### ID No.684/2005

"Whether the action of the management of General Manager, Telecom, Ferozepur in terminating the services

of Sh. Nachhattar Singh, S/o Sh. Gurmail Singh workman w.e.f. 12-11-2000 is just and legal? If not, to what relief the workman is entitled to and from which date?"

Since in both the cases the common questions of law and fact are involved hence, they are being decided by this common award.

As per claim statements the claimants were serving as workman from different dates in the office of JTO(G), Zira on monthly wages. Their services were terminated on 12-11-2000 without notice, charge sheet, inquiry and compensation against the provisions of the Act. While terminating the services of the claimants the juniors were retained and even new hands were recruited. Claimants have challenged their termination and have prayed for reinstatement with continuity in service and back wages etc.

It was denied that claimants were appointed as a workman or were paid wages or their services were terminated by the respondent. It was contended that in fact the then Department of Telecom Services (in short Telecom) had entered into a contract/agreement with a contractor for the supply of labour for the performance of emergency work in the Department, as a result of which the contractor engaged manpower as per agreement. The payment was made to the contractor and the department has no record to show that the claimants had worked with the erstwhile department, Telecom. The claimants cannot claim any relief against the erstwhile Department of Telecom which no longer exists, as it has been converted into a public sector undertaking known as Bharat Sanchar Nigam Limited (BSNL) with effect from 1-10-2000. Since the claimants were not appointed by the respondent the question of termination of their services without notice etc. by the respondent does not arise. No provision of the Act was violated by the respondent. There is no relationship of master and servant between the respondent and the claimants. The claimants have no case.

The claimants filed a rejoinder to the reply of the management to say that BSNL have inherited all the assets of the Department of Telecom and being its successor is fully liable and it is not correct that the Department of Telecom is non-existent and the claimants were engaged/recruited and paid by the respondent as workman and they were under the supervision and control of the respondent. The alleged contractor was nowhere in the picture. The contractor if any was merely a name-lender and the real employer was the respondent.

In support of their respective claims the claimants filed their affidavits while on behalf of management affidavits of Kripal Singh DET and of H.K. Yadav, SDE were filed. In ID No. 683 the concerned claimants Ramesh Singh gave his statement also and proved his affidavit but in ID No. 684/2005 the concerned claimant Nachhattar Singh did not appear for his statement. However later on both the claimants stopped attending the cases and vide order dated

10-12-2010 both the cases were ordered to proceed ex-parte against the concerned workman.

I have heard the learned counsel for the management and perused the evidence on record. Learned counsel for the management did not press the plea that BSNL being a different body is not liable in the matter.

The important question is whether the claimants are the employees of the respondent management or of erstwhile Telecom Department and there is a relationship of master and servant between the latter and the claimants.

It is settled proposition of law that where a person asserts that he was a workman of the Department and it is denied by the department, it is for the workman to prove the fact and it is not for the department to prove that the workman was not an employee of the department but of some other person. So in the present case the burden of proof was on the claimants to establish the master and servant relationship between respondent and them.

At one time the supervision and control used to be considered as a *prima facie* test for determining the relationship of employee and employer but as the Hon'ble Supreme Court in *Workman of Nilgiri Co-operative Marketing Society Limited Vs. State of Tamil Nadu 2004-II-LIU 253* observed that "no single test-be it control test organization test or any other test was determinative test for determining the jural relationship of employer and employee." The Hon'ble Court held that the court is required to consider several factors which would have a bearing on the result: (a) who is appointing authority? (b) Who is pay master? (c) Who can dismiss? (d) How long alternative service lasts (e) The extent of control and supervision (f) the nature of job e.g. whether it is professional or skilled work? (g) Nature of establishment? (h) The right to reject.

In the present case there is no evidence to show that the claimants worked under the supervision and control of the respondents, they had been appointed by the respondent management and were paid wages by it, management-respondent terminated their services and it had disciplinary control over the claimants.

So, there is nothing on record to show that there was any relationship of employer and employee between the respondent-management and the claimants and the services of the claimants were terminated by the respondent-management, hence, the question of determining the legality and Justification of the termination of the services of the claimants does not arise. The references accordingly are decided against the workmen. They are not entitled to any relief. Copy of the award be placed on the record of each of the ID i.e ID No.683/2005 and 684 of 2005.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, १० अगस्त, 2012

का.आ. 2760.—आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में केन्द्रीय सरकार मैसर्स. भारती

एअरटेल सर्विसेस लि., नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली के पंचाट (संदर्भ संख्या 43/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-40012/104/2011 आई आर (डीयू) ]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd August, 2012

**S.O. 2760.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 43/2012) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the M/s. Bharti Airtel Service Ltd., New Delhi and their workman, which was received by the Central Government on 3-8-2012.

[No. L-40012/104/2011-IR (DU)]

SURENDRA KUMAR, Section Officer

#### ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
NO. 1, KARKARDOOMA COURTS COMPLEX,  
DELHI**

**ID No. 43/2012**

Shri Naveen Kumar,  
All India General Mazdoor Trade Union,  
170, Bal Mukund Khand Giri,  
Kalkaji,  
New Delhi ..... Workman

#### Versus

M/s. Bharti Airtel Services Limited  
Corporate Centre,  
Neelgagan Mandi Road,  
Sultanpur, Mehrauli,  
New Delhi ..... Management

#### AWARD

Shri Naveen Kumar joined services with M/s. Bharti Airtel Services Ltd. (in short the management) on 09.01.2007. When he got better opportunity elsewhere, he tendered his resignation, which was accepted by the management on 17-2-2011. He obtained his dues and left the management for better pastures. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication vide order No.L-40012/104/2011-IR(DU), New Delhi dated 7-2-2012 with the following terms:

"Whether the action of the management of M/s. Bharti Airtel Services Limited in transferring the services of the workman, Shri Naveen Kumar to M/s.

Bharti Airtel Services Ltd. is fair and just? Whether action of M/s. Bharti Airtel Services Ltd. in terminating the services of Shri Naveen Kumar on 17-2-2011 is fair and just? What relief the workman is entitled to?"

2. In the reference order, the appropriate Government commanded the claimant to file his claim statement alongwith the relevant documents and list of reliances within 15 days from receipt of the reference order. Despite the directions given, the claimant opted not to file his written statement.

3. Notice was issued to the claimant by registered post on 12-3-2012 calling upon him to file his claim statement before the Tribunal on 28-3-2012. The said notice was sent to the claimant through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in the reference order. Neither the postal article was received back nor the claimant or anyone on his behalf appeared before the tribunal. It is presumed that the said notice was duly served on the claimant. Despite service of the notice, no claim statement was filed.

4. Another notice was sent by registered post on 28-3-2012 and 13-4-2012 and 3-5-2012 calling upon the claimant to file his claim statement on 13-4-2012, 3-5-2012, and 4-6-2012 respectively. However, none on behalf of the claimant appeared. These facts make it clear that the claimant is not at all interested in projecting his grievances before the Tribunal.

5. When claim statement was not put forward, management was called upon to file its response to the reference order. In the response so filed, management projects that the claimant voluntarily resigned from the services and obtained his dues on 17-2-2011. Copy of resignation letter has been relied, besides statement filed and final payment made to the claimant. It has been projected that a sum of Rs.88,272.00 was paid to the claimant towards full and final settlement of his dues on 17-2-2011. The amount was transmitted to the bank account of the claimant. After getting his terminal benefits, the claimant bade farewell to the management.

6. Out of facts projected in its response, which are supported by documents, it came to light that the claimant resigned his job and obtained a sum of Rs. 88,272.00 from the management towards full and final settlement of his dues. When the claimant has voluntarily resigned, it cannot be said that his services were terminated by the management, that too in an illegal manner. Consequently, it is concluded that the action of the management is legal and justified. No relief is called for in favour of Shri Naveen Kumar. An award, is accordingly, passed. It be sent to the appropriate Government for publication

Dr. R. K. YADAV, Presiding Officer

Dated: 13-7-2012

नई दिल्ली, 3 अगस्त, 2012

का.आ. 2761.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रजिस्ट्रार, दिल्ली यूनिवर्सिटी, के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार्य के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली के पंचाट (संदर्भ संख्या 8/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-42012/86/2010 आई आर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd August, 2012

S.O. 2761.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 8/2011) of the Central Government Industrial Tribunal/Labour Court, No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the the Registrar, Delhi University and their workmen, which was received by the Central Government on 3-8-2012

[No. L-42012/86/2010-IR (DU)]

SURENDRA KUMAR, Section Officer

#### ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
NO. 1, MARKARDOOMA COURTS COMPLEX,  
DELHI

ID No. 8/2011

Shri Vishal S/o Late Sh. Mahender Singh,  
C/o P-2/624, Sultanpuri,  
Delhi

... Workman

#### Versus

The Registrar,  
Delhi University,  
Delhi University Campus,  
Delhi

... Management

#### AWARD

One Shri Mahender Singh was working as sweeper with the University of Delhi (in short the University). He died in harness on 6-10-1988. At the time of death, his son Vishal was only 7 years old. In April 2000, Smt. Sudesh, widow of late Shri Mahender Singh, moved an application before the University, pleading therein that her son may be given job, so that they may survive. In consideration of the said application, Vishal was engaged as a daily wager office attendant with effect from 5-6-2000 to 1-9-2000. Thereafter, he was engaged from time to time for fixed periods, as per exigency of work, arising in various departments, faculties and offices of the University. He worked in Faculty of Medical Sciences for a period of 89 days with effect from 30-4-2003. He was again engaged as

an unskilled labour with effect from 30-7-2003 to 31-8-2003. Thereafter, he was engaged with effect from 2-9-2003 for various periods from time to time. He abandoned his engagement since 1-11-2006. He moved an application before the University on 9-1-2007 claiming therein that he may be taken on job. Subsequent applications were sent by him on 11-4-2007, 17-10-2007 and 25-3-2008. In between, his mother sent an application on 9-3-2007 to the University seeking compassionate appointment for her daughter, Monica. It was projected therein that Vishal had left for Port Blair where his in-laws do reside. Lastly, an application dated 14-5-2009 was sent by Vishal claiming that he may be allowed to resume his duties. When the University did not respond, he sent a legal notice dated 1-6-2009. The University sent reply to the legal notice, refuting his claim. He raised an industrial dispute before the Conciliation Officer. Since the conciliation proceedings failed, the appropriate Government referred the dispute to this tribunal for adjudication, vide order No. L-42012/86/2010-IR(DU) New Delhi dated 8-12-2012, with the following terms:

Whether the action of the University of Registrar of Delhi University, Delhi, in terminating the services of Shri Vishal S/o late Shri Mahender Singh with effect from 1-11-2006 is legal and justified? To what relief the workman is entitled?

2. Claim statement was filed by Shri Vishal pleading therein that his father was working at the main campus of the University as sweeper. He was a permanent employee of the University. He died on 6-10-1988, while in employment of the University. After the death of his father, he moved an application for his appointment on compassionate grounds. On consideration of his application, the University offered post of office assistant on daily wage basis on compassionate grounds. He was appointed as such with effect from 5-6-2000. Since that day, he was working as daily wager office assistant without any break in his service. He projects that immediately after the death of his father, he applied for his appointment on compassionate grounds. The University kept sitting on the said application for 12 years. Ultimately, the University decided to grant him appointment on compassionate grounds as daily wager. However, he was assured that soon he would be regularized and made a permanent employee. On receipt of the said assurances, he joined his duty and worked with the University till 29-12-2006. The University had not allowed him to continue on the job. Assurances were given that he would be allowed to join the job very soon. He made several representations, but to no avail. According to him, the action of the University in not allowing him to resume duty is completely illegal and against the principles of natural justice. Termination of his service is violative of provisions of section 25F of Industrial Disputes Act, 1947 (in short the Act). Provisions of section 25G and 25H of the Act are also violated by the University. Neither any charge sheet was served on him nor domestic

enquiry was conducted. Principles of natural justice were violated. Prior to termination of his services, neither one month notice nor pay in lieu thereof was given to him. No compensation was paid, as per law. Hence, termination of his services is violative of provisions of the Act.

3. The claimant unfolds that he served legal notice of demand on the University on 1-6-2009, calling upon to reinstate his services with continuity and full back wages. The University failed to make a reply to the notice and to fulfill the demands made. According to him, action of the University is liable to be set aside. He seeks reinstatement in service of the University with continuity and full back wages.

4. Claim was demurred by the University pleading that no appointment to any post in the University can be made without an open public advertisement followed by selection of the candidate by a committee appointed for that purpose. Since the claimant nowhere claims that he made an application against an open public advertisement and was selected for post of peon by Selection Committee, he cannot maintain the claim against the University. It has been agitated that neither the claimant was entitled to nor appointed on the post of peon on compassionate grounds. The University does not dispute that his father expired on 6-10-1988. It has been pleaded that claim for compassionate appointment cannot be made after a period of 12 years from the date of death of his father.

5. The claimant was engaged purely on daily wage basis in special cell for work relating to registration of SC/ST candidates as per Office Order No.409 dated 21-6-2000 with effect from 5-6-2000 to 1-9-2000. It was clearly stipulated that his wages would be paid out of the provisions made for 'seasonal staff' under the budget head "General Administration Common Services". He was further engaged as a daily wager from time to time for fixed periods as per exigency of work in various departments, faculties and offices of the University. He worked in Faculty of Medical Sciences with effect from 30-4-2003 for a period of 89 days, again engaged as unskilled labour with effect from 30-7-2003 to 31-8-2003 and further engaged as unskilled labour with effect from 2-9-2003 for various periods from time to time. He abandoned his engagement as daily wager on 1-11-2006 without any intimation. In view of exigency of work, Chaman Prakash Giri was engaged for the work earlier being done by the claimant. He was never engaged on compassionate grounds after the death of his father. It has been denied that the claimant was working with the University till 29-12-2006.

6. Smt. Sudesh, widow of Shri Mahender Singh, submitted an application dated 9-3-2007 seeking employment on compassionate ground for her daughter, Monica, projecting that the claimant had abandoned his engagement as daily wager and had gone to his in-law's place at Port Blair in December, 06. Except an undated

application submitted on 14-12-2009, the claimant made false assertion that he made various representation to the University claiming therein that he was not allowed to resume his duties since 29-12-2006. He sent a legal notice, which was duly replied on 22-9-2009. No case is there in favour of the claimant to seek compassionate appointment. Since service of the claimant was never terminated by the University, there cannot be any question of violation of provisions of Section 25F, 25G or 25H of the Act. Since the claimant had abandoned his daily wager engagement, there was no question of serving any charge-sheet and initiation of domestic enquiry. There was no occasion of giving one months' notice or wages in lieu thereof. The claimant was not entitled to any compensation. His claim has no merits and is liable to be dismissed, the University pleads.

7. On the pleadings of the parties, following issues were settled:

- (1) Whether engagement of the claimant on daily wage basis from time to time was on compassionate grounds?
- (2) Whether the claimant abandoned services of the University on 1-11-2006?
- (3) As in terms of reference.
- (4) Relief.

8. Claimant entered the witness box to testify facts. His examination-in-chief was recorded in part on 17-2-2011. At his own request, his further examination was deferred for the next date. Thereafter, his examination in part was recorded on 9-3-2011 and 22-7-2011. His cross examination remained incomplete and was deferred for 26-9-2011, on which date he opted not to attend the Tribunal. Thereafter, the claimant appeared on 4-11-2011, on which date adjournment was sought on behalf of the University. That was the last date attended by the claimant. On subsequent dates, that is 16-11-2011, 28-12-2011, 9-2-2012, 20-3-2012, 23-4-2012, 15-5-2012 and 28-6-2012, he opted to abstain away from the proceedings. On 28-6-2012, the Tribunal was constrained to proceed with the matter under Rule 22 of the Industrial Disputes (Central) Rules, 1957 and evidence of the claimant was closed.

9. From facts detailed above, it emerged that full opportunity was not given to the University to purify testimony of the claimant by ordeal of cross examination. Since the claimant does not want to face rigors of cross examination, it cannot be concluded that there were ample opportunities available with the University to ascertain facts from him. Consequently, it is evident that it is a case where claimant wants to hoodwink the University and offers no opportunity to ascertain veracity of facts, testified by him before the Tribunal. When complete opportunity is not accorded to the University to cross examine the claimant, his testimony cannot be read in the matter.

10. Shri G.K. Singh, Deputy Registrar (Legal), tendered his affidavit as evidence on behalf of the

University. Since none was present on behalf of the claimant, opportunity could not be accorded to the claimant to cross examine Shri G. K. Singh. In his absence, the Tribunal cannot allow the claimant to exercise his right of cross examination of Shri G.K. Singh. Consequently, affidavit of Shri G. K. Singh emerges as legal evidence, which can be appreciated for adjudication of the controversy.

11. Arguments were advanced by Shri Pawan Kumar Aggarwal, authorized representative, for the University in the matter. None was present on behalf of the claimant to present facts. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

#### Issue No. I

12. Out of facts pleaded by the parties and those detailed in affidavit of Shri G.K. Singh it came to light that Shri Mahender Singh, father of the claimant, was working as sweeper with the University. He was a permanent employee. He died in harness on 6-10-1988. At that time, the claimant was only 7 years old, since his date of birth is 26-8-1981. Neither in its written statement nor in affidavit of Shri G.K. Singh, the University projects facts about the policy of compassionate appointment, adopted by it. There is complete vacuum of facts on the issue, since the University does not speak about its policy on compassionate appointment. However the University has not claimed to the effect that it has no scheme for compassionate appointment. Hence natural corollary flows that there is a scheme available with the University for compassionate appointments. That scheme has not been placed before the Tribunal for consideration. Consequently, the Tribunal is left with no option but to consider the scheme of compassionate appointment, adopted by the Government of India. It would be in the fitness of things to ascertain as to what that scheme is and to whom it is applicable.

13. Scheme of compassionate appointment applies to dependent family member—

- (A) of a Government servant who
  - (a) dies while in service (including death by suicide), or
  - (b) is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules, 1957, or
  - (c) is retired on medical grounds under Rule 38 of the CCS (Pension) Rules, 1972, or
- (B) of a member of the Armed Forces who
  - (i) dies during service; or
  - (ii) is killed in action; or
  - (iii) is medically boarded out and is unfit for civil employment.

Government servant for the purpose of the scheme means, a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or ad hoc or contract or re-employment basis.

14. Dependent family members has been advised to mean:

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred above, who was wholly dependent on the Government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be.

15. Compassionate appointment can be made to Group 'C' or Group 'D' posts against direct recruitment quota. For consideration of application for compassionate appointment family of the Government servant who died in harness or retired on medical grounds should be indigent and deserves immediate assistance for relief from financial destitution and applicant for compassionate appointment should be eligible and suitable for the post in all respects. Compassionate appointments are exempted from observance of:

- (a) Recruitment procedure
- (b) Clearance from the Surplus Cell of the Department of Personnel and Training/ Directorate of Employment and Training
- (c) The ban orders on filling of posts issued by the Ministry of Finance (Department of Expenditure)

16. Upper age-limit could be relaxed wherever found to be necessary. The lower age-limit should, however, in no case be relaxed below 18 years of age. Age eligibility is to be determined with reference to the date of application and not the date of appointment. Secretary to the Ministry/ Department concerned is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules. In case of appointment at the lowest level, that is, Group 'D' or LDC post, in exceptional circumstances where the condition of the family is very hard, such relaxation will be permitted up to a period of 2 years beyond which no relaxation of educational qualification will be admissible and services of the person concerned, if still unqualified are liable to be terminated. Where widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirement of possessing the educational qualification prescribed in the relevant rules, provided the duties of the post can be

satisfactorily performed by her without possessing such educational qualifications.

17. Appointment on compassionate grounds should be made only on regular basis and that too only, if regular vacancies meant for that purpose are available. Such appointments can be made upto 5% of the vacancies falling under direct recruitment quota in any Group 'C' or 'D' posts. Ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family members of Government servant on casual, daily wage, ad hoc, contract basis against regular vacancies. There is no bar in considering him for such appointment if he is eligible as per the normal rules/orders governing such appointments.

18. Application for compassionate appointment can be considered, if it is made belatedly, say moved after 5 years of the death of the Government servant or so. While considering such belated requests, it should, however, be kept in view that concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. So such belated requests call for a great deal of circumspection. Request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical grounds of Government servant and not the age of the applicant at the time of consideration.

19. The person appointed on compassionate grounds under the scheme should give an undertaking in writing that he/she will maintain properly other family members who were dependent on the Government servant and in case it is proved subsequently that the family members are being neglected or are not being maintained properly, his appointment may be terminated forthwith. While considering request for appointment on compassionate grounds, balanced and objective assessment of financial condition of the family is to be made taking into account its assets and liabilities (including benefits received under various welfare schemes) and all other relevant factors, such as, presence of an earning member, size of the family, age of the children and the essential needs of the family. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crises and to relieve the family from financial destitution and to help it get over the emergency.

20. The Apex court in G. Anantha Rajeshwara Rao [1994 (1) SCC 192] had considered the scheme of compassionate appointments formulated by the Government of India and ruled that appointment on grounds of descent clearly violates article 16(2) of the Constitution, but if the appointment is confined to the son or daughter or widow of the Government servant who die

in harness, who need immediate appointment on the ground of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of economies from the bread winner to relieve to distress of the members of the family, it is unexceptionable. Again in Umesh Kumar Nagpal [JT 1994 (3) SC 5325] the Apex Court considered the scheme and laid down following principles in that regards:

(1) Only dependents of an employee dying in harness, leaving his family in penury and without any source of livelihood can be appointed on compassionate grounds.

(2) The posts in group "C" and "D" are the lowest posts in non managerial and managerial categories and hence those posts alone can be offered on compassionate grounds.

(3) The whole object of granting compassionate appointments is to enable the family to tide over the crisis and to relieve the family of the deceased from destitution and to help it get over the emergency.

(4) Offering compassionate appointments as a matter of course, irrespective of financial condition of the family of the deceased or medically retired Government servant, is legally impermissible.

(5) Neither the qualification of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to accept it. The post is not to be offered to cater his status but to see family through the economic calamity.

(6) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in the future, and

(7) Compassionate appointment cannot be offered by an individual functionary or an ad hoc basis.

21. In Asha Ram Chander Ambedker and others [JT 1994 (2) SC 183] the Apex Court ruled that the High Courts and Administrative Tribunals cannot give directions for appointment of a person on compassionate ground but can merely direct consideration of the claim for such appointment. In Dinesh Kumar [JT 1996 (5) SC 319] and Smt. A. Radhika Therumalai [JT 1996 (9) SC 197] it was announced that appointment on compassionate ground can be made only, if a vacancy is available for that purpose. In Rami Devi and Others [JT 1996 (6) SC 646] it was ruled that if the scheme relating to appointment on compassionate ground is accepted to all sort of casual, ad hoc employees, including those who are working as apprentice, then the scheme cannot be justified on constitutional grounds.

22. Now factual matrix of the controversy is to be addressed. As projected by the claimant, his father expired on 6-10-1988. At that time, he was only 7 years old. His

mother opted not to move any application seeking compassionate appointment. No facts were projected that the family of the deceased Mahender Singh was indigent and in need of immediate assistance for relief from financial destitution. It is also not brought over the record that in 1988 or soon thereafter, the claimant was eligible for compassionate appointment. As emerged over record, belated request for compassionate appointment was made. While considering such belated requests, it is to be kept in view that concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from immediate destitution. The very fact that the family has been able to manage somehow for a long period of 12 years is to be taken as adequate proof that the family had some dependable means of subsistence. Consequently, in consideration to the application of the claimant or his mother, facts are to be considered with great detail of circumspection.

23. Application dated 11-4-2000, moved by Smt. Sudesh, is available with the Tribunal for consideration. Contents of the said application make it apparent that she unfolds that there were no source of income with her as her husband had expired. She requested that she would be grateful if her son is given service by the University. Not even a word has been spoken about the financial means available with the family of the deceased Mahender Singh. It is also not projected as to how the family could pull on for a period of 12 years. Even after consideration of the case of the claimant for compassionate appointment, the Tribunal feels handicapped since no facts are highlighted relating to financial position of the family. Therefore, these facts make out that the claimant or his mother had not placed facts relating to their financial need. An application was moved after a period of 12 years, which fact gives inference that there were some dependable means of subsistence with the family. Consequently, I am of the considered view that the claimant could not establish his case for compassionate appointment with the University.

24. Office-order No.12 dated 9-5-2000 was placed on record by the claimant. This office order makes it clear that 6 temporary posts of peon/watermen on daily wage basis were created for the special cell. Those posts were to be filled on daily wage basis or on compassionate grounds. It has been detailed in the said office order that if the post is filled on compassionate grounds, list may be produced by Establishment IV in that regard. Note dated 22-5-2000 strengthens the proposition that list of candidates desirous of seeking appointment on compassionate grounds was obtained.

25. Note dated 29-5-2000 highlights that it was proposed that the claimant may be appointed on daily wages for a period of 89 days on compassionate grounds. Can the University appoint someone on compassionate grounds on daily wage and that too for a specific period. Answer

lies in negative. Compassionate appointments are to be made only on regular basis that too if such vacancies are available. As note dated 9-5-2000 projects that temporary posts of peons/watermen were created. All such temporary posts were created for specific period. Compassionate appointment cannot be made on those posts, since those posts were not created on regular basis.

26. As note dated 9-5-2000 projects, temporary posts were created for specific period and on those posts, claimant and others were engaged on daily wages for a limited period. Undoubtedly, their names were considered by the University, since they were wards of employees, who died in harness. However, their cases were not considered on regular basis on which compassionate appointments could be made. Financial position of the family were not taken into consideration nor it was considered that vacancy on regular basis is available. No undertaking in writing was taken from the claimant to the effect that he would maintain other members of the family. Therefore, appointment of the claimant on post of peon on daily wages cannot be said to be made on compassionate grounds. It simply emerges that for making appointment on daily wages, those families were chosen whose bread earners left for their heavenly abode. However, it was not considered as to whether the family had some dependable means or not and how it could sustain for considerable long period. Therefore, it emerges that mere appointment of the claimant on the post of peon for a limited period would not project that he was appointed on compassionate grounds. It is concluded that the appointment of the claimant on daily wages basis from time to time cannot be termed as appointment on compassionate grounds. Assertion in above office note to the effect that appointment was on compassionate ground is nothing but misnomer. The issue is, therefore, answered in favour of the University and against the claimant.

#### Issue No.2

27. Shri G.K. Singh swears in his affidavit that on 1-11-2006 the claimant abandoned his job. He highlights that thereafter for the first time the claimant submitted an undated application on 14-5-2009 seeking permission to resume his duties. Application dated 9-3-2007 moved by Smt. Sudesh, the widow of the deceased, gives confirmation to the facts unfolded by Shri Singh. In that application, mother of the claimant asserts that after his marriage the claimant left for Port Blair, in December '06. She projects that financial status of her family deteriorated and she had no means to sustain. She requested that job may be given to her daughter, Monica, so that the family may pull on. This application, moved by mother of the claimant has not been a matter of dispute. Further, it proves over record that in December '06, the claimant left for Port Blair, where his in-laws do reside. It emerges over record that the claimant abandoned his job and went to settle at Port Blair, where his in-laws do reside. These facts are sufficient to conclude that the claimant had abandoned his job on 1-11-2006. The

issue is, therefore, answered in favour of the University and against the claimant.

#### Issue No. 3

28. No evidence worth name is there over records to conclude that services of the claimant were terminated by the University. On the other hand, it has come over records that the claimant had abandoned his job. When the claimant opts to abandon his job, responsibility cannot be put on the University to establish that services of the claimant were terminated in a legal and justified manner. No such situation arises, which may constrain the University to establish legality of its action. When the claimant had abandoned his job, the University cannot be held accountable for such a situation. The issue is therefore, answered in favour of the University and against the claimant.

#### Relief

29. The claimant was neither appointed on compassionate grounds nor against a permanent post. On the other hand, he opted to abandon his job on 1-11-2006. In view of these facts, he is not entitled to any relief. His claim statement deserves dismissal. Consequently, the claim statement filed by the claimant is discarded. An award is, accordingly, passed in favour of the University and against the claimant. It be sent to the appropriate Government for publication.

Dated: 29-6-2012

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 3 अगस्त, 2012

**का.आ. 2762.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स. भारती एयरटेल सर्विसेस लि., नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 23/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-40012/97/2011-आई आर (डीयू)]  
सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd August, 2012

**S.O. 2762.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 23/2012) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the M/s. Bharti Airtel Service Ltd., New Delhi and their workman, which was received by the Central Government on 3-8-2012 ..

[No. L-40012/97/2011-IR (DU)]  
SURENDRA KUMAR, Section Officer

## ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
NO. 1, KARKARDOOMA COURTS COMPLEX,  
DELHI**  
**ID No.23/2012**

Shri Parvez Alam,  
All India General Mazdoor Trade Union,  
170, Bal Mukund Khand Giri,  
Kalkaji,  
New Delhi

.... Workman

**Versus**

M/s. Bharti Airtel Services Limited,  
Corporate Centre,  
Neelgagan Mandi Road,  
Sultanpur, Mehrauli,  
New Delhi

..... Management

**AWARD**

Shri Parvez Alam joined services with M/s. Bharti Airtel Services Ltd. (in short the management) on 1-4-2006. When he got better opportunity elsewhere, he tendered his resignation, which was accepted by the management on 31-3-2011. He obtained his dues and left the management for better pastures. subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication vide order No.L-40012/97/2011-IR(DU), New Delhi dated 17-1-2012 with the following terms:

**“Whether the action of the management of M/s. Bharti Airtel Services Limited in terminating the services of the workman, Shri Parvez Alam, ex-Salesman with effect from 3-11-2010 is legal and justified? What relief the workman is entitled to?”**

**2. In the reference order, the appropriate Government commanded the claimant to file his claim statement alongwith the relevant documents and list of reliances within 15 days from receipt of the reference order. Despite the directions given, the claimant opted not to file his written statement.**

**3. Notice was issued to the claimant by registered post on 14-2-2012 calling upon him to file his claim statement before the Tribunal on 5-3-2012. The said notice was sent to the claimant through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in the reference order. Neither the postal article was received back nor the claimant or anyone on his behalf appeared before the tribunal. It is presumed that the said notice was duly served on the claimant. Despite service of the notice, no claim statement was filed.**

4. Another notice was sent by registered post on 5-3-2012, 23-3-2012 and 18-4-2012 calling upon the claimant to file his claim statement on 23-3-2012, 18-4-2012 and 10-5-2012 respectively. However, none on behalf of the claimant appeared. These facts make it clear that the claimant is not at all interested in projecting his grievances before the Tribunal.

5. When claim statement was not put forward, management was called upon to file its response to the reference order. In the response so filed, management projects that the claimant voluntarily resigned from the services and obtained his dues on 31-3-2011. Copy of resignation letter has been relied, besides statement filed and final payment made to the claimant. It has been projected that a sum of Rs.53,712.00 was paid to the claimant towards full and final settlement of his dues on 31-3-2011. The amount was transmitted to the bank account of the claimant. After getting his terminal benefits, the claimant bade farewell to the management.

6. Out of facts projected in its response, which are supported by documents, it came to light that the claimant resigned his job and obtained a sum of Rs.53,712.00 from the management towards full and final settlement of his dues. When the claimant has voluntarily resigned, it cannot be said that his services were terminated by the management, that too in an illegal manner. Consequently, it is concluded that the action of the management is legal and justified. No relief is called for in favour of Shri Parvez Alam. An award, is accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 3 अगस्त, 2012

**का.आ. 2763.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारती एअरटेल सर्विसेस लि., नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 22/2012) को प्रंकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-40012/96/2011 आई आर (डी.यू.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd August, 2012

**S.O. 2763.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the M/s. Bharti Airtel Service Ltd., New Delhi and their workmen, which was received by the Central Government on 3-8-2012.

[No. L-40012/96/2011-IR(DU)]

SURENDRA KUMAR, Section Officer

## ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL No. 1, KARKARDOOMA COURTS  
COMPLEX, DELHI  
ID No. 22/2012

Shri Randhir Kumar Yadav,  
All India General Mazdoor Trade Union,  
170, Bal Mukund Khand Giri,  
Kalkaji,  
New Delhi

.....Workman

## Versus

M/s. Bharti Airtel Services Limited,  
Corporate Centre,  
Neelgagan Mandi Road,  
Sultanpur, Mehrauli,  
New Delhi

....Management

## AWARD

Shri Randhir Kumar Yadav joined services with M/s. Bharti Airtel Services Ltd. (in short the management) on 11-12-2006. When he got better opportunity elsewhere, he tendered his resignation, which was accepted by the management on 30-09-2010. He obtained his dues and left the management for better pastures. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication vide order No.L-40012/96/2011-IR(DU), New Delhi dated 18-01-2012 with the following terms:

“Whether the action of the management of M/s. Bharti Airtel Services Limited in terminating the services of Shri Randhir Kumar Yadav, ex-Salesman with effect from 30-09-2010 is legal and justified? What relief the workman is entitled to?”

2. In the reference order, the appropriate Government commanded the claimant to file his claim statement alongwith the relevant documents and list of reliances within 15 days from receipt of the reference order. Despite the directions given, the claimant opted not to file his written statement.

3. Notice was issued to the claimant by registered post on 14-02-2012 calling upon him to file his claim statement before the Tribunal on 05-03-2012. The said notice was sent to the claimant through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in the reference order. Neither the postal article was received back nor the claimant or anyone on his behalf appeared before the tribunal. It is presumed that the said notice was duly served on the

claimant. Despite service of the notice, no claim statement was filed.

4. Another notice was sent by registered post on 05-03-2012, 23-03-2012 and 18-04-2012 calling upon the claimant to file his claim statement on 23-03-2012, 18-04-2012 and 10-05-2012 respectively. However, none on behalf of the claimant appeared. These facts make it clear that the claimant is not at all interested in projecting his grievances before the Tribunal.

5. When claim statement was not put forward, management was called upon to file its response to the reference order. In the response so filed, management projects that the claimant voluntarily resigned from the services and obtained his dues on 30-09-2010. Copy of resignation letter has been relied, besides statement filed and final payment made to the claimant. It has been projected that a sum of Rs. 15,532.00 was paid to the claimant, towards full and final settlement of his dues on 30-09-2010. The amount was transmitted to the bank account of the claimant. After getting his terminal benefits, the claimant bade farewell to the management.

6. Out of facts projected in its response, which are supported by documents, it came to light that the claimant resigned his job and obtained a sum of Rs. 15,532.00 from the management towards full and final settlement of his dues. When the claimant has voluntarily resigned, it cannot be said that his services were terminated by the management, that too in an illegal manner. Consequently, it is concluded that the action of the management is legal and justified. No relief is called for in favour of Shri Randhir Kumar Yadav. An award, is accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 3 अगस्त, 2012

का.आ. 2764.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारती एअरटेल सर्विसेस लि., नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 20/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-40012/93/2011-आई आर (डी.यू.)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 3rd August, 2012

S.O. 2764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the M/s. Bharti Airtel

Services Ltd., New Delhi and their workmen, which was received by the Central Government on 3-8-2012.

[No. L-40012/93/2011-IR (DU)]

SURENDRA KUMAR, Section Officer

#### ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL NO. 1, KARKARDOOMA COMPLEX,  
COMPLEX, DELHI**

**ID No. 20/2012**

Shri Naveen Kumar,  
All India General Mazdoor Trade Union,  
170, Bal Mukund Khand Giri,  
Kalkaji,  
New Delhi

.....Vice Chairman

#### Versus

M/s Bharti Airtel Services Limited  
Corporate Centre,  
Neelgagan Mandi Road,  
Sultanpur, Mehrauli,  
New Delhi

.....Management

#### AWARD

Shri Naveen Kumar joined services with M/s Bharti Airtel Services Ltd. (in short the management) on 09-1-2007. When he got better opportunity elsewhere, he tendered his resignation, which was accepted by the management on 17-02-2011. He obtained his dues and left the management for better pastures. Subsequently, he raised a dispute before the Conciliation Officer, claiming that his services were terminated in an illegal manner. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication (vide order No. L-40012/93/2011-IR (DU), New Delhi dated 17-01-2012 with the following terms:

“Whether the action of the management of M/s Bharti Airtel Ltd. in terminating the services of Shri Naveen Kumar, S/o Shri Rameshwar Lal, Ex-Salesman with effect from 17-02-2011 is legal and justified? What relief the workman is entitled to?”

2. In the reference order, the appropriate Government commanded the claimant to file his claim statement alongwith the relevant documents and list of reliances within 15 days from receipt of the reference order. Despite the directions given, the claimant opted not to file his written statement.

3. Notice was issued to the claimant by registered post on 12-03-2012 calling upon him to file his claim statement before the Tribunal on 28-03-2012. The said notice was sent to the claimant through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in the reference order. Neither

the postal article was received back nor the claimant or anyone on his behalf appeared before the tribunal. It is presumed that the said notice was duly served on the claimant. Despite service of the notice, no claim statement was filed.

4. Another notice was sent by registered post on 28-03-2012, 13-04-2012 and 03-05-2012 calling upon the claimant to file his claim statement on 13-04-2012, 03-05-2012 and 04-06-2012 respectively. However, none on behalf of the claimant appeared. These facts make it clear that the claimant is not at all interested in projecting his grievances before the Tribunal.

5. When claim statement was not put forward, management was called upon to file its response to the reference order. In the response so filed, management projects that the claimant voluntarily resigned from the services and obtained his dues on 17-02-2011. Copy of resignation letter has been relied, besides statement filed and final payment made to the claimant. It has been projected that a sum of Rs. 88,272.00 was paid to the claimant towards full and final settlement of his dues on 17-02-2011. The amount was transmitted to the bank account of the claimant. After getting his terminal benefits, the claimant bade farewell to the management.

6. Out of facts projected in its response, which are supported by documents, it came to light that the claimant resigned his job and obtained a sum of Rs. 88,272.00 from the management towards full and final settlement of his dues. When the claimant has voluntarily resigned, it cannot be said that his services were terminated by the management, that too in an illegal manner. Consequently, it is concluded that the action of the management is legal and justified. No relief is called for in favour of Shri Naveen Kumar. An award, is accordingly, passed. It be sent to the appropriate Government for publication

Dr. R. K. YADAV, Presiding Officer

Dated: 13-07-2012

नई दिल्ली, 3 अगस्त, 2012

का.आ. 2765. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की थाग 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण-पूर्व-रेलवे के प्रबंधन वाले संचालनियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम नियन्त्रण, जबलपुर के पंचाट (संदर्भ संख्या 49/02) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[नं. एल. 41012/96/2001 आई आर (बी. 1)]  
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 3rd August, 2012

S.O. 2765.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/02)

of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of South Eastern Railway and their workman, received by the Central Government on 3-8-2012.

[No. L-41012/96/2001-IR (B-I)]

RAMESH SINGH, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

No. CGIT/LC/R/49/02

PRESIDING OFFICER : SHRI MOHD. SHAKIR HASAN

Shri B.S.Naidu, Vice President,  
AIREC, 145, Keshwar Awas,  
Sonritivan Turning Point,  
Rajkishore Nagar,  
Bilaspur

... Workman

**Versus**

The Sr.D.P.O,  
South Eastern Railway,  
Bilaspur Division,  
Bilaspur (Chhattisgarh)

The Sr.DEN,  
South Eastern Railway,  
Bilaspur Division,  
Bilaspur (Chhattisgarh)

... Managements

**AWARD**

Passed on this 11th day of July, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-41012/196/2001-IR(B-I) dated 22-3-2002 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the AEN, South Eastern Railways, Manendragarh in removing the services of Shri Alha S/o Sunwa, Gangman w.e.f. 13-8-98 is justified? If not, what relief the workman is entitled? ”

2. The case of the Union/workman in short is that the workman was initially appointed as Gangman under Permanent Way Inspector ( in short PWI) South Eastern Railway, Bijuri. His service record was clean except this charges. He was chargesheeted on 9- 12-1997 under Rule 9 of the Railway Servant (Discipline & Appeal) Rules 1968 for unauthorized absent from 10-3-95 till the date of chargesheet. He submitted his reply to the time keeper of the office of PWI, Bijuri where he had stated that he was absent due to sickness. He had sent medical certificate to the department. However the department initiated a proceeding against the workman and Shri N.C.Mandal was appointed as an Enquiry Officer. He received notice on

4-4-1998 to attend departmental enquiry on 11-4-1998. He appeared on the date fixed and requested for time to engage defence assistant but the same was not considered. His statement was taken by the Enquiry Officer and was forced to sign over the same. He demanded the copy of the statement but the same was rejected. The documents as mentioned in the chargesheet were not supplied and the Enquiry Officer had himself acted as a prosecutor rather than a judge. The workman was not aware that any witness was examined on behalf of the management. The enquiry report was supplied to the workman but the Disciplinary Authority did not give any opportunity to be heard and the order of removal was issued by the incompetent authority. The workman filed appeal but it was not yet decided. On these grounds, it is submitted that the order of removal dated 13-8-98 be set aside and the workman be reinstated with full back wages.

3. The management also appeared and filed Written Statement. The case of the management, interalia, is that Shri B.S.Naidu Ex-painter Gr.I Bhilai is not a member of any registered Union of Indian Railway and therefore he is not competent to raise the present dispute. The further case is that the workman was habitual absentee and he was earlier punished. It is stated that admittedly he became absent from duty from 24-10-96 till charge sheet without intimation and permission of the Competent Authority. He had never submitted any Private Medical Certificate nor any unfit certificate from the Railway Doctor. He appeared on 11-4-98 in response of the charge sheet but did not engage any defence counsel inspite of clear advise vide letter dated 27-3-98. He had been given full opportunity to defend himself. All the witnesses were examined during the course of enquiry who were named in the chargesheet. It is stated that during enquiry, the workman admitted unauthorized absence from duty. It is stated that Assistant Engineer was appointing authority of the workman and therefore the order of removal passed by him is justified and valid. There is no appeal pending against the workman. On these grounds, it is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are framed.

I. Whether the action of the management in removing the services of Shri Alha w.e.f. 13-8-98 is justified?

II. To what relief, the workman is entitled?

5. During the pendency of the reference proceeding, the Union/workman became absent, as such the then Tribunal proceeded ex parte against the Union/workman on 10-5-2007.

**6. Issue No. I**

The management has adduced oral and documentary evidence in order to prove the case against the workman.

Exhibit W/1 is the chargesheet, enquiry report and removal order dated 13-8-98. These documents are filed by the workman and are admitted by the management. These documents go to show that the workman was charge sheeted on 9-12-1997 for his unauthorized absence from 24-10-96. The enquiry report and the removal order clearly show that the workman was given full opportunity to defend himself but he did not give any representation of the chargesheet. This clearly shows that there was no illegality in the order of removal.

7. The management has also examined one witness. The management witness Shri R. Shankaran is presently working as Asstt. Personnel Officer. He has supported the case of the management. He has stated that Assistant Engineer is appointing authority of the Gangman and the workman was habitual absentee. He was absent since 24-10-96. He has further stated that the departmental enquiry was conducted and the workman appeared in the proceeding on 11-4-98. The enquiry was conducted as per rules and the workman was awarded full opportunity to defend himself but he had accepted the charges. His evidence is unrebutted. There is no reason to disbelieve his evidence. This shows that full opportunity was given to the workman to defend himself. I find that there is nothing to disbelieve the evidence of the management. Thus this issue is decided against the workman and in favour of the management.

#### 8. Issue No. II

On the basis of the discussion made above, I find that there is no merit in the case of the workman and therefore he is not entitled to any relief. The reference is accordingly answered.

9. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 3 अगस्त, 2012

का.आ. 2766.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 72/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/106/2008-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 3rd August, 2012

S.O. 2766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in

the Industrial Dispute between the management of State Bank of India and their workman, received by the Central Government on 3-8-2012.

[No. L-12012/106/2008-IR (B-I)]

RAMESH SINGH, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

##### Present :

Shri J. Srivastava,  
Presiding Officer, C.G.I.T.-cum-Labour Court,  
Bhubaneswar.

##### INDUSTRIAL DISPUTE CASE No. 72/2008

Date of Passing Award -10th July, 2012

##### Between :

The Asst. General Manager,  
State Bank of India, Bapujinagar Branch,  
Dist. Khurda, Orissa,  
Bhubaneswar (ORISSA) ....1st Party-Management.

And

Their workman Sri Balabhadra Jena,  
Qr. No. VR-5/1, Kharvela Nagar, Unit-3,  
Bhubaneswar. (ORISSA) ....2nd Party-Workman

##### Appearances:

Shri Alok Das, .... For the 1st Party-  
Authorized Representative Management.

None. .... For the 2nd Party-  
Workman.

#### AWARD

The Government of India in the Ministry of Labour has referred the present dispute existing between the employers in relation to the Management of State Bank of India and their workman under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their Letter No. L-12012/106/2008-IR (B-I), dated 07-10-2008 to this Tribunal for adjudication to the following effect :

“Whether the action of the management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Sri Balabhadra Jena, w.e.f. 30-9-2004 without complying the provisions of the I.D. Act, 1947 is legal and justified? To what relief is the workman concerned entitled?”

2. The 2nd Party- Workman has filed his statement of claim alleging that he had joined his services as a Messenger in the year 1997 after succeeding in interview. He was assured to get permanent appointment order after one year or on completion of 240 days' work in a calendar year, but despite completion of several years of continuous

satisfactory service and putting in more than 240 days' work in each year he was not regularized, instead terminated and refused employment from 30-9-2004 by the 1st Party-Management without any written communication or payment of compensation. The 1st Party-Management in refusing employment to him, violated all principles of natural justice and mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. He therefore brought the matter into the notice of the C.G.M. and C.D.O. of the State Bank of India, L.H.O., Bhubaneswar. But on hearing nothing, he raised an industrial dispute before the Regional Labour Commissioner (Central) vide his letter dated 05-10-2007. Conciliation proceedings were started, but they failed and thereupon a failure report was submitted to the Government and the Government made the present reference. He is thus entitled to get full back wages and reinstatement with continuity of service with effect from 30-9-2004.

3. The 1st Party-Management in its reply through written statement has stated that the present dispute is misleading and misconceived in as much as the 2nd Party-workman had already raised a similar dispute along with 124 other workers through the State Bank of India Temporary 4th Grade Employees Union before the Assistant Labour Commissioner (Central), Bhubaneswar challenging their alleged termination of service by the 1st Party-Management. In the said dispute the failure report was sent by the Asstt. Labour Commissioner (Central), Bhubaneswar to the Ministry of Labour who in turn referred the matter to this Tribunal for adjudication and the same is pending before this Tribunal being I.D. Case No. 7/2007. The name of the 2nd Party-workman is appearing at S1. No. 69 in Annexure-A to the said reference. Thus, raising a common dispute for same cause of action and again raising individual dispute for same relief is nothing but an abuse of the process of law and amounts to multiplicity of litigation. The Asstt. Labour Commissioner (Central) while conciliating the individual disputes disregarded the direction of the Deputy Chief Labour Commissioner (Central) not to take any further action on the separate disputes raised by the same workers for the same cause of action. The allegation of the 2nd Party-workman that he had joined the Bank in the year 1997 and he was discontinued from service on 30-9-2004 is not correct. It is also not correct that he was signing bogus voucher. He was engaged intermittently on temporary/daily wage basis due to exigencies of work. It is further denied that he was performing his duties with all sincerity and honesty and to the best of satisfaction of the Authority. The 2nd Party-workman has neither completed several years of continuous service in the Bank nor he has completed 240 days of continuous service in any calendar year preceding the date of his alleged termination. In order to give an opportunity for permanent absorption to the ex-temporary employees/daily wagers in the Bank in view of the various settlements entered into between the All

India State Bank of India Staff Federation and the Management of the State Bank of India all eligible persons were called for interview. The Union or the 2nd Party-workman has never challenged the implementation of the settlement which has now gained finality. It is further submitted that some of the wait-listed candidates, who could not be absorbed in the Bank's service due to expiry of the panel on 31st March, 1997 filed Writ Petitions before the Hon'ble High Court of Orissa. But the Hon'ble High Court of Orissa by a common order dated 15-5-1998 passed in O.J.C. No. 2787/1997 dismissed a batch of Writ Petitions and upheld the action of the Management of the Bank. This order of the Hon'ble High Court was also upheld by the Hon'ble Supreme Court of India in S.I.P. No. CC-3082/1999. Hence the above matter has attained finality and cannot be re-agitated. Since the services of Sri Jena were discontinued much earlier to 30-9-2004 his claim has become stale by raising the dispute after three years. It is a settled principle of law that delay destroys the right to remedy. Thus raising the present dispute is liable to be rejected on this ground alone.

4. On the pleadings of the parties following issues were framed:-

#### ISSUES

1. Whether the present reference of the individual workman during the pendency of the I.D. Case No. 7/2007 before this Tribunal on the same issue is legal and justified?
2. Whether the workman proves that he has worked for more than 240 days as required under Section 25-F of the Industrial Disputes Act?
3. Whether the action of the Management of State Bank of India, Bhubaneswar Main Branch, Bhubaneswar in terminating services of Shri Balabhadra Jena w.e.f. 30-9-2004 is, fair, legal and justified?
4. To what relief is the workman concerned entitled?
5. The 2nd Party-workman despite giving sufficient opportunity did not produce any evidence either oral or documentary in support of his claim and willingly kept himself out of the proceedings at the stage of evidence by absenting himself or his Union representative.
6. The 1st Party-Management has adduced the oral evidence of Shri Abhay Kumar Das as M.W.-I and filed documents marked as Ext.-A to Ext.-J in refutation of the claim of the 2nd Party-workman.

#### FINDINGS

##### ISSUE No. 1

7. A specific plea has been raised by the 1st Party-Management that a group of 125 employees including the 2nd Party-workman had already raised a similar dispute in I.D. Case No. 7/2007 before this Tribunal for the same relief

which is pending for adjudication. The dispute as referred to in I.D. Case No. 7/2007 is given below for comparison with the dispute in the present case -

**"Whether the action of the Management of State Bank of India, Orissa Circle, Bhubaneswar in not considering the case of 125 workmen whose details are in Annexure-A for re-employment as per Section 25(H) of Industrial Disputes Act, 1947 is legal and justified? If not, what relief the workmen are entitled to?"**

8. The name of the 2nd party-workman appears at S1. No. 69 in Annexure-A to the above reference. In both the cases the matter of disengagement or so called retrenchment is involved to be considered in one or the other way and the relief claimed is with regard to re-employment. But challenge has been made more specifically against the termination of service of the 2nd Party-workman in the present case while in I.D. Case No. 7/2007 prayer has been made with regard to consideration of the case of 125 workmen for re-employment as per Section 25-H of the Industrial Disputes Act, 1947. In fact, in the latter case the workmen have submitted or virtually surrendered to their cessation of employment or alleged termination, whereas in the present case they have challenged their termination on facts and law. Virtually in the present case validity and legality of the alleged termination has to be tested at the alter of facts and legal propositions. Therefore it cannot be said that the issues involved in both the cases are same. This case can proceed despite pendency of I.D. Case No. 7/2007 and the present reference by the individual workman pending for adjudication is maintainable being legal and justified. This issue is therefore decided in the affirmative and against the 1st Party-Management.

#### **ISSUE NO. 2**

9. The onus to prove that the 2nd Party-workman has completed one year or 240 days of continuous service during a period of 12 calendar months preceding the date of his alleged termination or disengagement from service lies on him, but the 2nd Party-workman has not adduced any evidence either oral or documentary in support of his contention. He has only alleged in his statement of claim that he had joined the service in the year, 1997 and worked till 30-9-2004 on temporary/casual/daily wage basis, but he has not filed any certificate or reliable document showing the break-up of year-wise service rendered by him under the 1st Party-Management during the above period. The 1st Party-Management, on the other hand, has alleged that the 2nd Party-workman was engaged intermittently on temporary/daily wage basis due to exigencies of work and he had never completed 240 days continuous service in a calendar year. M.W.-1 Shri Abhaya Kumar Das in his statement before the Court has stated that "the disputant was working intermittently for few days in our Branch on daily wage basis in exigencies.....

He had not completed 240 days of continuous and uninterrupted service preceding the alleged date of the termination". He has denied the allegation that the workman was discontinued with effect from 30-9-2004, but stated that "Infact the workman left working in the Branch in 1997" The 2nd Party- workman has to disprove the evidence led by the 1st Party-Management, but he has not come before the Court to give evidence. A temporary or daily wage worker has no right to claim reinstatement and particularly when such an employee had not worked for 240 days continuously during a period of 12 calendar months preceding the date of his so-called termination. Thus he is not entitled to get benefit of Section 25-F of the Industrial Disputes Act, 1947. This issue is hereby decided against the 2nd Party-workman for failing to prove that he had worked for 240 days continuously during a period of 12 calendar months preceding the date of his disengagement or alleged termination from service.

#### **ISSUE NO. 3**

10. Since the 2nd Party-workman could not prove that he had rendered 240 days continuous service under the 1st Party-Management during a period of 12 calendar months preceding the date of his disengagement or alleged termination, he is not entitled for re-employment even in case of his alleged illegal and arbitrary termination. Moreover, he was a temporary/casual/daily wage employee. His services can be terminated at any time without assigning any cause by the 1st Party-Management. He has no legal right to be retained in service for the extended period, if he was appointed for a certain period or when no time is specified. The 2nd Party-workman has not filed any letter of appointment or proof of having rendered service under the 1st Party-Management for a specified period against a regular post. The 1st Party-Management has further alleged that in time of exigencies only the 2nd Party-workman was employed. It means that with the end of exigencies his job also came to an end. In view of the matter the action of the management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Sri Balabhadra Jena with effect from the alleged date of his termination is fair, legal and justified. This issue is accordingly decided in the affirmative and against the 2nd Party-workman.

#### **ISSUE NO. 4**

11. In view of the findings recorded above under Issues No.2 and 3, the 2nd Party-workman is not entitled to any relief whatsoever claimed.

12. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 6 अगस्त, 2012

**का.आ. 2767.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन**

बीमा निगम के प्रबंधनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय 1, नई दिल्ली के पंचाट (संदर्भ संख्या 91/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-8-2012 को प्राप्त हुआ था।

[सं. एल-17012/48/1997-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 6th August, 2012

**S.O. 2767.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 91/2011) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 1-8-2012.

[No. L-17012/48/1997-IR (B-II)]

SHEESH RAM, Section Officer

#### ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL No. 1, KARKARDOOMA COURTS  
COMPLEX, DELHI**

ID No. 91/2011

Sh.Satbir Singh  
S/o Sh.Prahlad Singh,  
H.No.RZ-I-51, Raj Nagar-I,  
Dada Chhatty Wala Marg,  
Palam Colony,  
New Delhi-110045.

...Workman

#### Versus

The Sr. Divisional Manager,  
LIC of India, D.O.-II, Jeevan Pragati,  
Plot No.6,  
Distt. Centre Luxmi Nagar,  
New Delhi-110092. ...Management

#### AWARD

Life Insurance Corporation of India (Employment of Temporary Staff) Instructions, 1993 (hereinafter referred to as Temporary Staff Employment Scheme) was formulated by Life Insurance Corporation of India (hereinafter referred to as the Corporation), on 28th June, 1993 to employ temporary staff in class III and class IV posts. Temporary staff in class III posts could be engaged in situations: (i) permanent vacancy pending recruitment on regular basis, (ii) vacancies arising out of absence on maternity leave of a regular female or when regular employee proceeds on sick leave for a period exceeding one month, and (iii) adhoc vacancies sanctioned by the Zonal Manager to cope with the work of seasonal nature. In pursuance of Temporary Staff Employment Scheme,

the claimant was engaged on 30-04-1996 as Assistant for a period of 85-days. His services came to end on 29-8-1996, on account of non-renewal of contract of employment. Feeling aggrieved by the said action of the Corporation, the claimant raised an industrial dispute before the Conciliation Officer. The Conciliation Officer opined that there was no scope for conciliation and submitted his failure report before the appropriate Government. The appropriate Government referred the dispute to this Tribunal, vide order No.L-17012/48/97-IR(B-II), New Delhi dated 29th June, 1998, with following terms:-

“Whether the offer of appointment given by LIC of India to workman Sh.Satbir Singh as temporary assistant, is in confirmity with the provisions of law? If not, to what relief the workman is entitled ?”

2. Subsequently vide order No.L-17012/48/97-IR (B-II), New Delhi dated 11-11-2005, a corrigendum was issued by the appropriate Government and terms of reference were modified/added as detailed below:-

“Whether the offer of appointment given by LIC of India to the workman as temporary assistant is in conformity with the provisions of law? If not, to what relief the workman is entitled?”

“Whether the termination of service of Shri Satbir Singh by the management of LIC of India is justified? If not, to what relief the workman is entitled?”

3. The claim statement filed in response to modified reference order, project that the Corporation asked Employment Exchange, New Delhi, to sponsor names of eligible candidates of categories viz General/SC/ST and other backward classes etc. for appointment as Assistant in the Corporation. Name of the claimant was sponsored under general category. He was interviewed and selected by the Selection Committee and appointed as Assistant in the pay scale of Rs. 1000 plus usual allowances as applicable to the Corporation. He was posted at branch unit-11-D, 1st Floor, Veer Savarkar Block, Vikas Marg, Shakar Pur, Delhi. His services were always found satisfactory by his superiors. He rendered unblemished service and gained experience as an honest worker. All of a sudden, his services were orally terminated on 29-8-1996, without assigning any reason. Inspite of his repeated requests, termination order was not withdrawn. Demand notices dated 6-2-1997 and 26-2-1997 were served. Claim was filed before the Conciliation Officer but no settlement could arrive at. He claims that his services may be reinstated with continuity and full back wages, holding that offer of appointment given by the Corporation, was not in consonance with the provisions of law.

4. The Corporation demurred the claim pleading that Temporary Staff Employment Scheme was circulated by the Corporation vide circular No.ZD/793/ACP/93 on

28-6-1993, which scheme governs employment of temporary staff in class III and class IV posts. The scheme, so circulated by the Corporation, was valid, legal and in conformity with law. Corporation was competent to formulate the scheme. The claimant was employed vide letter dated 23-4-1996 for a fixed period. After expiry of the said period, his services were liable to be terminated. He was engaged purely on temporary basis, after creating adhoc vacancy for a particular period, in order to lessen work load created due to leave of regular staff, by the Recruitment Board. Termination of his service was as a result of non-renewal of contract of employment. No right accrued in favour of the claimant to seek his reinstatement and declaration to the effect that offer of appointment, given to him, was not in accordance with law.

5. Claimant entered the witness box to establish claim made in the claim statement. Ms. Jyoti Virmani deposed facts on behalf of the Corporation. No other witness was examined by either of the parties.

6. Vide order No.Z-22019/6/2007-IR(C-II) dated 11-02-2008, the case was transferred to the Central Govt. Industrial Tribunal No.2, New Delhi, for adjudication. It was re-transferred to this Tribunal, vide order No.Z-22019/6/2007-IR(C-II) New Delhi, dated 30-03-2011, for adjudication.

7. The claimant tendered written arguments. Shri S.R. Bhardwaj, authorised representative, advanced oral arguments and also submitted written submissions on behalf of the Corporation. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows.

8. In his affidavit Ex.WW-1/A, tendered as evidence, the claimant swears that the Corporation requested Employment Exchange, Daryaganj, Delhi, to sponsor names of eligible candidates of all categories. He was interviewed and selected by the Selection Committee. He was posted at branch unit-11-D, 1st Floor, Veer Savarkar Block, Vikas Marg, Shakar Pur, Delhi. His services were found to be satisfactory. He rendered unblemished service throughout. His services were terminated orally, without assigning any reason. Inspite of his request, he was not allowed by the Corporation to resume his duties. Demand notices dated 6-2-1997 and 26-2-1997 were sent, but to no avail. During the course of his cross-examination, he concedes that he was appointed for a period of 85 days. He further states that he read and understood contents of appointment letter, which is Ex.WW-1/MI.

9. Ms. Jyoti Virmani swears in her affidavit Ex.MW-1/A, tendered as evidence, that vacancies for specific period were created by the Corporation to clear back log of work load accumulated on account of female employees being on maternity leave, on account of regular employees being on leave and on account of fact that

recruitment of regular staff through selection committee was to take considerable time. The Corporation formulated Temporary Staff Employees Scheme in compliance with the order of the Apex Court passed in Piara Singh [JT 1992 (5) 179]. The claimant was appointed purely on temporary basis for a fixed period, against adhoc vacancy. His services automatically came to an end, on expiry of period of his employment. During the course of her cross-examination, she concedes that the name of the claimant was sponsored by the Employment Exchange along with other candidates. He was interviewed for temporary post for fixed period. Initially he worked for 85 days. Thereafter he worked for 35 more days. Thus he worked in all for 120 days. Temporary Assistants like claimant were not given permanent status by the Corporation at any point of time. There is no vacant post/vacancy for permanent post in the Corporation. No recruitments are made for last many years to permanent posts.

10. When facts unfolded by the claimant and Ms. Virmani are appreciated, it came to light that Temporary Staff Employment Scheme was formulated by the Corporation. In consonance with the scheme, the Corporation employed temporary staff in class III posts in following situations:—

- (i) Due to pendency of recruitment of staff on regular basis, against permanent vacancies.
- (ii) Vacancies arising out of absence of maternity leave of regular female employee or when regular employee proceeds on medical leave for a period exceeding one month; and
- (iii) Adhoc vacancies sanctioned, by the Zonal Manager, to cope up with the work of seasonal nature.

11. It is an admitted proposition that name of the claimant was sponsored by the Employment Exchange. Claimant was interviewed and selected for the post of Assistant. He was offered appointment for 85 days as temporary assistant vide letter dated 23-4-1996, which is Ex.WW-1/M-1. Extension of 35 days was given to the claimant. His services came to an end on 29-8-1996.

12. Terms of employment, which governs conditions of service of the claimant, are detailed in Ex.WW1/MI. It is specifically mentioned therein that employment of the claimant shall be effective for a period of 85 days from 30-4-1996 to 23-7-1996. It is also mentioned therein that his engagement was completely on temporary basis. Paragraph three of the said letter reiterates that his employment was on completely temporary basis and his services would come to an end, on expiry of period, referred above. It has further been stipulated that his services can be terminated without assigning any reason during the aforesaid period. It was also stipulated that during the period of his temporary employment no provisions of Life Insurance Corporation (Employees) Regulation shall be

applicable to him and he would not be entitled to any benefit, under those regulations, stipulates paragraph four of the said letter. He was not eligible to be absorbed in services of the Corporation on the basis of his temporary employment, declares paragraph six of the said letter. Tone and tenor of terms of employment, detailed in Ex. WW-1/M-1, make it clear that the claimant was made known that offer of appointment was purely temporary for a period of 85 days, which appointment was liable to come to an end, on expiry of the said period. His temporary employment was not to accrue any right in his favour for regularisation/absorption in services of the Corporation. Even otherwise a right was reserved by the Corporation to terminate services of the claimant for any reason whatsoever during currency of the temporary period of employment. The claimant accepted terms of his employment, referred above, and joined services of the Corporation.

13. Extension of period of 35 days was given to the claimant. Thereafter no further extension was given and his services came to an end on 29-8-1996. Whether non-renewal of contract of employment of the claimant would amount to retrenchment. For an answer definition of word "retrenchment" given in clause (oo) of Section 2 of the Industrial Disputes Act, 1947 (in short the Act) needs consideration. For sake of convenience, the said definition is as extracted thus:

"(oo) "retrenchment" means the termination by the employer of the services of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the services of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the services of a workman on the ground of continued ill-health".

13. Definition of retrenchment is very wide and in two parts. The first part is exhaustive, which lays down that retrenchment means the termination of the service of a workman by the employer "for any reason whatsoever" otherwise than as a punishment inflicted by way of disciplinary action. Thus main part of the definition itself excludes the termination of service, as a measure of punishment inflicted by way of disciplinary action from the ambit of retrenchment. The second part further excludes (i) voluntary retirement of the workman, or (ii) retirement of workman on reaching the age of

superannuation, or (iii) termination of the service of a workman as a result of non-renewal of contract of employment, or (iv) termination of contract of employment in terms of a stipulation contained in the contract of employment in that behalf, or (v) termination of service on the ground of continued ill health of the workman. Reference can be made to the precedents in Avon Services (Production Agencies) (Pvt.) Ltd. [1979 (I) LLJ 1] and Mahabir [1979 (II) LLJ 363].

14. Sub Clause (bb) purports to exclude from the ambit of the definition of retrenchment (i) termination of the service of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned, on its expiry, or (ii) termination of the contract of employment in terms of a stipulation contained in the contract of employment in that behalf. The first part relates to termination of service of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry. Thus "non-renewal of contract of employment" presupposes an existing contract of employment, which is not renewed. When services of an employee is terminated on account of non-renewal of contract of employment, between the employer and the workman, it does not amount to retrenchment. The second part refers to "such contract" being terminated under a stipulation in that behalf contained therein. The cases contemplated, under this part too, would not amount to retrenchment. However this sub-clause, being in the nature of an exception to clause (oo) of Section 2 of the Act, is ruled to be construed strictly when contractual agreement is used as modus operandi to frustrate claim of the employee to become regular or permanent against a job. The adjudicator has to address himself to the question whether the period of employment was stipulated in the contract of employment as a device to escape the applicability of the definition of retrenchment. Sree Shailendra Nath Shukla [1987 Lab. I.C. 1607], Dilip Hanumantrao Shrike [1990 Lab. I.C. 100] and Balbir Singh [1990 (I) LLJ. 443].

15. On review of law laid by the Apex Court and various High Courts, a single Judge of the Madhya Pradesh High Court, in Madhya Pradesh Bank Karamchari Sangh (1996 Lab. I.C. 1161) has laid following principles of interpretation and application of sub-clause (bb) of clause (oo) of Section 2 of the Act

- "(i) that the provisions of Section 2(oo)(bb) are to be construed benevolently in favour of the workman,
- (ii) that if the workman is allowed to continue in service by making periodic appointments from time to time, then it can be said that the case would not fall under Section 2(oo)(bb),
- (iii) that the provisions of Section 2 (oo)(bb) are not to be interpreted in the manner which may stifle the main provision,

(iv) that if the workman continues in service, the non-renewal of the contract can be deemed as mala fide and it may amount to be a fraud on statute;

(v) that there would be wrong presumption of non-applicability of section 2(oo)(bb) where the work is of continuous nature and there is nothing on record that the work for which a workman has been appointed had come to an end".

16. Whether provisions of retrenchment, enacted in the Act, provide for any security of tenure? Answer lies in negative. Provisions of retrenchment provide for certain benefits to a workman in case of termination of his service, falling within the ambit of definition of retrenchment. Or compliance of the requirements of section 25F or 25N and 25G of the Act, it is open to the employer to retrench a workman.

17. Termination of service of an employee during the period of probation was held to be covered by the exception contained in sub-clause (bb) of section 2(oo) of the Act, in C.M. Venugopal (1994 (1) L.L.J 597). As per fact of the case, Regulation 14 of the Life Insurance Corporation of India (Staff) Regulation 1962 empowered the Corporation to terminate the service of an employee within the period of probation. The employee was put on probation for a period of one year, which was extended by another year. Since he could not achieve the target to earn confirmation, his service was terminated in terms of Regulation 14 as well as order of appointment. The Apex Court ruled that the case was covered by the exception contained in sub-clause (bb) hence it was not retrenchment.

18. In Morinda Co-operative Sugar Mills Ltd. (1996 Lab. I.C. 221) a sugar factory used to employ certain number of workmen during crushing season and at the end of the crushing season their employment used to cease. The Supreme Court held that despite in fact that the workmen worked for more than 240 days in a year, cessation of their employment at the end of crushing season would not amount to retrenchment in view of the provisions of sub-clause (bb) of section 2 (oo) of the Act. It was observed as follows :

"4. It would thus be clear that the respondents were not working throughout the season. They worked during crushing seasons only. The respondents were taken into work for the season and consequent to closure of the season, they ceased to work.

5. The question is whether such a cessation would amount to retrenchment. Since it is only a seasonal work, the respondents cannot be said to have been retrenched in view of what is stated in sub-clause (bb) of section 2(oo) of the Act. Under these circumstances, we are of the opinion that the view taken by the Labour Court and the High Court is illegal. However, the appellant is directed to maintain

a register for all workmen engaged during the seasons enumerated herein before and when the new season starts the appellant should make a publication in neighbouring places in which the respondents normally live and if they would report for duty, the appellant would engage them in accordance with seniority and exigency of work".

19. Above legal position was reiterated by the Apex Court in Anil Bapuro Kanase (1997 (10) S.C.C. 599) wherein it was noted as follows:

"3. The learned counsel for the appellant contends that the judgment of the High Court of Bombay relied on in the impugned order dated 28.3.1995 in Writ Petition No.488 of 1994 is perhaps not applicable. Since the appellant has worked for more than 180 days, he is to be treated as retrenched employee and if the procedure contemplated under Section 25-F of the Industrial Disputes Act, 1947 is applied, his retrenchment is illegal. We find no force in this contention. In Morinda Coop. Sugar Mills Ltd. v. Ram Kishan in para 3, this Court has dealt with engagement of the seasonal workman in sugarcane crushing, in para 4, it is stated that it was not a case of retrenchment of the workman, but of closure of the factory after the crushing season was over. Accordingly, in para 5, it was held that it is not 'retirement' within the meaning of Section 2(bb) of the Act. As a consequence the appellant is not entitled to retrenchment as per sub-clause (bb) of Section 2(oo) of the Act. Since the present work is seasonal business, the principles of the Act have no application. However, this Court has directed that the respondent management should maintain a register and engage the workmen when the season starts in the succeeding years in the order of seniority. Until all the employees whose names appear in the list are engaged in addition to the employees who are already working, the management should not go in for fresh engagement of new workmen. It would be incumbent upon the respondent management to adopt such procedure as is enumerated above".

Harnohinder Singh (2001 (5) S.C.C. 540) an employee was appointed as a salesman by Kharga canteen on 1-6-74 and subsequently as a cashier on 9-8-75. The letter of appointment and Standing Orders, inter alia, provided that his service could be terminated by one month's notice by either party. He was served with a notice to the effect that his service would be relinquished with effect from 30-6-1989. Relying precedent in Uptron India Ltd. (1998 (6) S.C.C. 538) the Apex Court ruled that contract of service for a fixed term are excluded from the ambit of retrenchment. Decision in Balbir Singh (supra) was held to be erroneous. It was also ruled that principles of natural justice are not applicable where termination takes place on expiry of contract of service.

21. In Batala Coop. Sugar Mills Ltd. (2005 (8) S.C.C. 481) an employee was engaged on casual basis on daily wages for specific work and for a specific period. He was engaged on 1-4-1986 and worked upto 12-2-94. The Labour Court concluded that termination of his services was violative of provisions of Section 25-F of the Act, hence ordered for his reinstatement with 50% back wages. Relying precedents in Morinda Coop. Sugar Mills (supra) and Anil Bapurao Kanase (supra) the Apex Court ruled that since his engagement was for a specific period and specific work, relief granted to him by the Labour Court can not be maintained.

22. The Apex Court dealt with such a situation again in Darbara Singh (2006 LLR 68) wherein an employee was appointed by the Punjab State Electricity Board as peon on daily wage basis from 8-1-88 to 29-2-88. His services were extended from time to time and finally dispensed with in June 1989. The Supreme Court ruled that engagement of Darbara Singh was for a specific period and conditional. His termination did not amount to retrenchment. His case was found to be covered under exception contained in sub-clause (bb) of section 2(oo) of the Act. In Kishore Chand Samal (2006 LLR 65), same view was maintained by the Apex Court. It was ruled therein that the precedent in S.M. Nilajkar (2003 (II) LLJ 359) has no application to the controversy since it was ruled therein that mere mention about the engagement being temporary without indication of any period attracts section 25 F of the Act if it is proved that the concerned workman had worked continuously for more than 240 days. Case of Darbara Singh and Kishan Chand Samal were found to be relating to fixed term of appointment.

23. In BSES Yamuna Power Ltd. (2006 LLR 1144) Rakesh Kumar was appointed as Copyist on 29-9-89, initially for a period of three months as a daily wager. His term of appointment was extended up to 20-9-90. No further extension was given and his services were dispensed with on 20-9-90. On consideration of facts and law High Court of Delhi has observed thus:

“...In the present case, the respondent was appointed as a copyist for totaling the accounts of ledger for the year 1986-87 and then for 1987-88. His initial appointment was for the period of three months. It was extended from time to time and no extension was given after 20th September, 1990. He was appointed without any regular process of appointment, purely casual and on temporary basis for specific work of totaling of ledger. When this work was over, no extension was given. I consider that appointment as that of the respondent is squarely covered under section 2(oo)(bb) of the Act. Giving of non extension did not amount to termination of service, it was not a case of retrenchment”.

24. Precedents, handed down by Allahabad High Court in Shailendra Nath Shukla (supra), Bombay High Court in Dilip Hanumantrao Shirke (supra), Punjab & Haryana High Court in Balbir Singh (supra) and Madhya Pradesh High Court in Madhya Pradesh Bank Karamchari Sangh (supra) castrate sub-clause (bb) of section 2(oo) of the Act. Ratio decidendi in these precedents abrogates statutory provisions of sub-clause (bb) of section 2 (oo) of the Act without even discussing the legality or constitutional validity of the clause. On the other hand the Apex Court in C.M. Venugopal (supra), Morinda Co-operative Sugar Mills Ltd. (supra), Anil Bapurao Kanase (supra), Harmohinder Singh (supra), Batala Coop. Sugar Mills Ltd. (supra), Darbara Singh (supra) and Kishore Chand Samal (supra) and High Court of Delhi in BSES Yamuna Power Ltd. (supra) spoke that case of an employee, appointed for a specific period which was extended from time to time would be covered by the exception contained in sub-clause (bb) of section 2(oo) of the Act, in case his services are dispensed with as a result of non-renewal of the contract of employment between him and his employer, on its expiry or termination of the contract of employment in terms of a stipulation contained in the contract of employment in that behalf. The law, so laid, holds the water and would be applied to the case of the claimant.

25. As admitted by the claimant, his services came to an end on 29-8-1996 when Corporation opted not to extend his term of employment. Ex. WW-1/M-1 stipulates that the claimant was appointed for a specific period, purely on temporary basis. It is also contained therein that the Corporation may terminate services of the claimant even during pendency of his term of employment, without assigning any reason in respect of termination of his services, during currency of his temporary employment. Corporation waited till expiry of his period of employment and opted not to renew his contract of employment. Therefore, termination of services of the claimant was the result of non-renewal of contract of employment. Such an act does not amount to retrenchment. When services of the claimant were not retrenched, he is not entitled to benefits of the provision of section 25G and 25H of the Act.

26. Thrust of the contention of the claimant has been that offer of appointment for a specific period was in violation of the rules of recruitment. However, the claimant has not been able to show that process of regular recruitment was adopted by the Corporation. The Co-operation proceeded ahead to employ claimant under Temporary Staff Employment scheme. The claimant could not question the scheme formulated by the Corporation. For consideration aspect of social justice, the Tribunal has to keep in mind that the Act is a beneficiary legislation calculated to ensure social justice to both employers and employees and advance progress of industry by bringing

harmony and cordial relationship between the parties. The Act empowers adjudicating authorities to abrogate conditions in contract of employment in the interest of social justice. Social and economic justice is ultimate ideal of industrial adjudication. Social and economic justice has been given place of pride in our constitution and doctrine of absolute freedom of contract has thus to yield to the higher claims for social justice. See Raibahadur Deewan Badri Das [1962 (II) LJ 366].

27. Social justice is not based on contractual relations and is not to be enforced on principles of contract of service. It is something outside these principles and invoked to do justice without a contract to back out. Reference can be made to precedent in Rashtriya Mill Mazdoor Sangh [1960 (II) LLJ 263]. In J.K. Cotton Spinning & Weaving Mills Company Ltd. [1963 (II) LLJ 435] the Apex Court ruled that industrial disputes are to be adjudicated based on the concept of social justice. It would be expedient to reproduce the observations made by the Apex Court which are extracted.

"In our opinion the argument that the considerations of social justice are irrelevant and untenable in dealing with industrial disputes, has to be rejected without any hesitation. The development of industrial law during the last decade and several decisions of this court in dealing with industrial matters have emphasised the relevance, validity and significance of doctrine of social justice. Indeed the concept of social justice has now become such an integral part of industrial law that it would be idle for any party to suggest that industrial adjudication can or should ignore the claim of social justice in dealing with industrial disputes. The concept of social justice is not narrow or one sided, or pedantic, and is not confined to industrial adjudication alone. Its sweep is comprehensive. It is founded on the basic idea of socio economic equality and its aim is to assist the removal of socio economic disparities and inequalities."

28. In Ahmedabad Manufacturing and Calico Printing Company Ltd. [1972 (II) LLJ 165] the above principles were reiterated by the Apex Court. Therefore, the law laid down by Apex Court makes it clear that the industrial adjudication cannot and should not ignore the claims of social justice. Some views were expressed in Basti Sagar Mills Company Ltd. [1978 (II) LLJ 412]. Therefore this Tribunal has to consider the case on the touch stone of social justice also.

29. The claimant wants that offer of appointment for a period of 85 days may be substituted as an offer of appointment on regular post. The terms and conditions of contract between the employer and employee can be interfered by this Tribunal only when it is found necessary in exigencies of the situation. The Tribunal cannot indiscriminately interfere with the contracts. This

discretion to interfere with the contract contained in Ex.WW-I/M-1, has to be faced with by the requirements of social justice. Alas! the claimant has not been able to put forward any fact which may tilt scale of social justice in his favour. As projected by Ms. Virmani appointment, purely on temporary basis, was given to the claimant since vacancies for specific period were created to clear backlog of workload accumulated on account of regular employees being on leave and also because recruitment of regular staff through selection process was to take considerable long time. The claimant could not raise eyebrows on facts, so testified by Ms. Virmani. The situation/exigencies unfolded by Ms. Virmani led the Corporation to formulate Temporary Staff Employment Scheme. Under that scheme the claimant was engaged for a specific period. When vacancy was created to clear backlog created on account of regular employee being on leave, this Tribunal cannot adventure to substitute contract of employment, entered in between the parties, using social justice principles. I do not find any case to substitute the terms of contract, entered into between the parties. No case is, therefore, made out in favour of the claimant.

30. In view of the above reasons, the claim put forward is to be brushed aside. In his written arguments the claimants projected certain facts, which were beyond the evidence adduced in the matter. Those facts cannot espouse his cause. Claim is, accordingly, brushed aside. An award is, passed in favour of the Corporation and against the claimant. It be sent to the appropriate Government for publication.

Dated : 2-7-2012

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 6 अगस्त, 2012

का.आ. 2768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/71/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/74/2004 आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 6th August, 2012

S.O. 2768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No CGIT/ NGP/71/2004) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 1-8-2012.

[No. L-12012/74/2004-IR (B-II)]  
SHEESH RAM, Section Officer

## APPENDIX

BEFORE SHRI J.P.CHAND, PRESIDING OFFICER,  
CGT-CUM-LABOUR COURT, NAGPUR

Case No.CGT/NGP/71/2004 Date : 17-7-2012

Party No.1 : The Asstt. General Manager  
Bank of India, Nagpur Zone,  
Zonal Office, S.V.Patel Marg,  
Post Box no. 4  
Nagpur- 440001

## Versus

Party No.2 : Shri Devanand S/o. Madhav Uike  
R/o. and Post-Jamb(Tukum),  
Tah-Pobhurni, Chandrapur (MS)

## AWARD

(Dated: 17th July, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Bank of India and their workman, Shri Devanand Uike, for adjudication, as per letter No.L-12012/74/2004-IR (B-II) dated 19-7-2004, with the following schedule :—

"Whether the action of the management in relation to Bank of India in terminating the services of Shri Devanand Madhav Uike, Sweeper, Bank of India, Rajeev Gandhi Engineering College, Extension Counter, Chandrapur on 10-12-2003 is legal & justified? If not, what relief is the concerned workman entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Devanand Uike, ("the workman" in short), filed the statement of claim and the management of Bank of India, ("Party No. 1" in short) filed its written statement.

The case of the workman as projected in the statement of claim is that party no. 1 is a nationalized Bank and is an industry and he is a workman within the provisions of the Act and the service conditions of the employees of party no. 1 are governed by the provisions of Sastry Award, Desai Award and different settlements signed between the management and employees' union from time to time. The further case of the workman is that he came to be appointed on 19-8-1991 at Chandrapur Engineering College Extension counter, which was subsequently renamed as Rajeev Gandhi Engineering college extension counter, on daily wages basis at the rate of Rs. 10 per day and he was paid wages of Rs. 10 per day for the period from 19-8-1991 to 13-12-1995 and Rs.25 per day from 1-1-1996 to 12-1-1998 and Rs.40 per day from 13-1-1998 to 13-5-2003 and with the oral permission of the Branch Manager, he was on leave for some purpose from 14-5-2003 and when he came back

to join duties on 10-12-2003, he found the party no. 1 to have already engaged some one else in his place and he was not re-engaged in the services by party no. 1 and as such, his services came to be declared as terminated w.e.f. 10-12-2003 and before termination of his services, no notice or notice pay in lieu of notice was given to him and from 19-8-1991 to 13-5-2003, his services were utilized by party no. 1 continuously and without any break on the wages, which were even substantially less than the minimum wages payable to bank employees and he was also called for personal interview to fill in permanent vacancy, but for the reasons not known to him, he was not selected by party no.1, even though he was fully in norms, backed with previous long year of service experience and he had put in more than the required period of service attracting Section 25-F of the Act and in fact, the termination impugned is retrenchment within the meaning of Section 25-F of the Act and the provisions envisaged in the Act were not complied with and no retrenchment compensation was paid to him, before termination of his services and for that the impugned termination was bad in law and in view of clause 508 of Sastry Award and the nature of his appointment and the duties and working hours for which he was engaged for a period of more than 10 years demonstrate that he was a permanent employee of party no.1 for all the purposes and as such, the termination of his services is illegal and unjustified and he was appointed in a permanent post of sub-staff and person junior to him in service came to be appointed in his place, in violation of the provisions of Section 25-F and 25-H of the Act.

The workman has prayed to declare the order of termination of his services dated 10-12-2003 as illegal and unjustified and to reinstate him in service with continuity and full back wages.

3. In the written statement, party no. 1 have pleaded inter-alia that there exists no relationship of employer and employee between them and the workman and at no point of time, the workman was appointed by them and as such, the workman has no right to prosecute the reference and as the workman was never in their employment, the question of paying salary and enhancement of his salary at his request does not arise and there is also no question of termination of his services or issuance of notice or payment of notice pay in lieu of notice or payment of retrenchment compensation to the workman. It is also pleaded by party no.1 that the workman did not work continuously without any break at Chandrapur Extension Branch from 19-8-1991 to 13-5-2003 and as the workman was never in their employment, the question of applicability of provisions of Section 25-F, 25-G and 25-H does not arise. Party no.1 have denied all the allegations made by the workman in the statement of claim.

4. Besides placing reliance on documentary evidence, both the parties have adduced oral evidence in support of their respective claims. The workman has examined himself

as a witness in support of his claims. The evidence of the workman is on affidavit. In his examination in chief, the workman has reiterated the facts mentioned in the statement of claim. He has further stated that he came to be appointed as part time sweeper in a clear vacancy and he used to work from 8.00 AM to 12.30 PM and was even asked in majority of days to work up to 3.00 PM and after completion of six months of continuous service, he was entitled to be declared as a permanent employee as per rules, but party no. 1 paid him wages, even less than the rate provided in the provisions of the Bipartite Settlement.

In his cross-examination, the workman has admitted that he has not filed any appointment order showing that he was appointed for the period from 19-8-1991 to 10-12-2003 and he has not filed any document to show that he worked as part time sweeper as alleged in his affidavit and he does not know the recruitment procedure and rules of appointment of sweeper.

5. One Ashok Somaji Ramteke, the Branch Manager, of Manora Branch of Bank of India has been examined as a witness on behalf of the party no. 1. This witness in his examination-in-chief, which is on affidavit has reiterated the facts mentioned in the written statement. This witness in paragraph four of his affidavit has also stated that the services of the workman were availed by the Manager of the extension counter as and when required as a daily wager and he was paid by the Manager from his own pocket and subsequently the Manager used to get the reimbursement of the said payment as per rules and regulations of the Bank and at no point of time, the workman had put in 240 days service in any calendar year. In his cross-examination, this witness has admitted that from the year 1990 to 1998, he was working as the cashier in the extension branch of Bank of India, Rajiv Gandhi Engineering College, Chandrapur and his statements in paragraph four of his affidavit are true and as per the practice adopted by the Bank, the Manager of the Branch is required to pay wages of a daily wager engaged in the Bank from his own pocket at first and then to reimburse the same as per the rules and regulations of the Bank. This witness has also admitted the suggestion that the Manager of the branch was reimbursing the wages which he was paying to the workman, Devanand Uike.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman worked from 19-8-1991 to 10-12-2003, for a long period of about 13 years continuously without any break with the bank and his appointment was against a clear vacant post of sub-staff and after working for six months continuously, he should have been treated as a permanent employee of the Bank, but the Bank illegally terminated his services on 10-12-2003 and before termination of the services of the workman, the mandatory provisions of Section 25-F of the Act were not complied with and the termination of the workman was illegal and as such, the workman is entitled for reinstatement in service with continuity and full back wages.

7. Per contra, it was submitted by the learned advocate for the party no. 1 that the workman was never employed by the Bank as a sub-staff in any clear vacancy and his services were utilized by the Manager of the Branch as and when required as a daily wager and the workman had not completed 240 days of work in any calendar year and the engagement of the workman was not regular and as such, there was no question of compliance of the provisions of Section 25-F of the Act and the workman is not entitled to any relief.

In support of such contentions, the learned advocate for the party no. 1 placed reliance on the decisions reported in (2006) 1-SCC-106 (R.M. Yelatti Vs. Asstt. Executive Engineer), (2006) 9 SCC-697 (Krisna Bhagya Jal Vs. Mohd. Rafi) and (2006) 9 SCC-132 (Surendranagar District Panchayat and Another Vs. Gangaben Laljibhai).

8. Before delving into the merit of the case, I think it necessary to mention about the principles enunciated by the Hon'ble Apex Court in the decisions cited by the learned advocate for the party no. 1.

9. The Hon'ble Apex Court in the decision reported in (2006) 1 SCC-106 (Supra) have held that:—

“Labour Law-Industrial Disputes Act, 1947 -Ss. 25-B and 25-F—Whether workman worked for continuous period of 240 days in a year-Held, burden of proof lies on the workman so as to entitle him to benefits of S. 25-F-In this case, respondent workman having failed to discharge the initial burden, Award of Labour Court holding termination of his service as illegal on ground of non-compliance with S.25-F and directing his reinstatement in service was erroneous-While Single Judge of High Court in Writ Petition correctly set aside the award, Division Bench erred in allowing the Writ appeal against the order of the Single Judge.”

“The provisions of the Evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading decisions of the Supreme Court on this point, it is found that the Supreme Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. Mere affidavits or self-serving statements made by the claimant workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year.”

10. In the decision reported in (2006) 9 SCC-697 (Supra) the Hon'ble Apex Court have held that:—

11. The Hon'ble Apex Court in the decision reported in (2006) 9 SCC-132 (Supra) have held that :—

“Labour Law- Industrial Disputes Act, 1947-Ss. 25-F, 25-B(2)(a)(ii) and 10-Requirement of 240 days' continuous service-Onus to prove- Held, lies on the workman-He must, apart from examining himself, adduce evidence to prove the factum of being in such employment. In the present case, the workman challenging the validity of oral termination of his service on the ground that he had worked for a period exceeding 240 days during the year-However, he not adducing any evidence except making oral statement to that effect. In such circumstances, held, Labour Court erred in holding the impugned termination to be illegal for non-compliance with S. 25. More so, when the employer had produced photo copied of attendance and salary registers—However, emoluments if any paid on reinstatement pursuant to that decision restrained from being recovered.”

13. It is clear from the principles enunciated by the Hon'ble Apex Court as mentioned above and the provisions of Sections 25-B and 25-F of the Act that the burden of proof is on the workman to show that he had worked for 240 days in the preceding 12 months prior to his alleged retrenchment and this burden is discharged upon the workman adducing cogent evidence, both oral and documentary and mere affidavit or self serving statements made by the workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 day in a given year.

Now, the present case in hand is to be considered with the touch stone of the principles enunciated by the Hon'ble Apex Court as mentioned above.

14. After going through the materials available on record including the pleadings of the parties and the evidence, both oral and documentary adduced by them and taking into consideration the submissions made by the learned advocate for the parties, it is found that the engagement of the workman by party no. 1 was on daily wages basis as and when required and his engagement was not a regular appointment or in accordance with the Recruitment Rules of party no. 1. The workman has claimed that his services came to be terminated on 10-12-2003. So, it is to be found out as to whether, the workman has been able to prove that in fact, he had worked for 240 days in the preceding 12 calendar months of 10-12-2005.

Besides his own oral evidence, the workman has relied on the documents, copy of his application dated 13-12-1995, copy of inter-office memorandum dated 22-12-1995, regarding enhancement of the wages of the workman from Rs.10 to Rs. 25 per day, copy of the call letter dated 12-11-1991 issued to him by the Bank to appear in the interview for appointment of sweeper, copy of inter office memorandum dated 12-1-1998 regarding payment of

wages to the workman @ Rs. 40 per day for December, 1997 and copy of the letter submitted by the workman to the Bank dated 30-6-2000. None of the documents filed by the workman shows that the workman worked for 240 days in the preceding 12 calendar months of 10-12-2005. The copy of the letter written by workman which was received by the Bank on 30-6-2000 clearly shows that the engagement of the workman by the bank was on daily wages basis as and when required and the workman did not work continuously from 19-8-1991 to 10-12-2005. Except the oral evidence of the workman, there is no other evidence on record to show that the workman in fact worked for 240 days in the preceding 12 calendar months of 10-12-2005. Hence, it is found that the workman has failed to discharge the burden of proof, which was on him. Therefore, provisions of Section 25-F of the Act are not applicable to his case. Hence, it is ordered:—

#### ORDER

The action of the management in relation to Bank of India in terminating the services of Shri Devanand Madhav Uike, Sweeper, Bank of India, Rajiv Gandhi Engineering College, Extension Counter, Chandrapur on 10-12-2003 is legal & justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 6 अगस्त, 2012

का.आ. 2769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-1/ 55 ऑफ 2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/37/2004-आई आर (बी-II)]  
शीश राम, अनुभाग अधिकारी

New Delhi, the 6th August, 2012

S.O. 2769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-1/ 55 of 2004 ) of the Central Government Industrial Tribunal/ Labour Court-1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 1-8-2012.

[No. L-12012/37/2004-IR (B-II)]

SHEESH RAM, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO.1 MUMBAI****Present : JUSTICE G. S. SARRAF, Presiding Officer****REFERENCE NO:CGIT-1/55 OF 2004****Parties : Employers in relation to the management of Bank  
of Maharashtra****And****Their workman (Vijay Anant Surve)****Appearances:****For the Management : Shri M.B.Anchan, Adv.****For the workman : Absent.****State : Maharashtra****Mumbai, dated the 10th day of July, 2012.****AWARD**

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act 1947. The terms of reference given in the schedule are as follows:

Whether the action of the management of Bank of Maharashtra in imposing the punishment of removal on Shri Vijay Anant Surve, Sub-staff from the services of the bank by punishment order dated 11-7-2003 is justified, proper and in proportion to the alleged charges of misconduct? If not, what relief the workman is entitled to and from which date and what other directions are necessary in the matter.?

2. According to the statement of claim filed by the workman Vijay Anant Surve on 22-5-2006 he did not commit any misconduct. He has prayed that his back wages be released and he be continued in service.

3. According to the written statement the second party workman was working as Sub-Staff, Malad (W) Branch, Mumbai. The workman was served with the chargesheet dt. 19-7-2002 for the following misconducts:—

- (i) Remaining absent from duties without leave/prior permission and proper sanction, which is a minor misconduct under clause 19.7(a) of Bipartite Settlement dated 19-10-1966.
- (ii) Remaining absent continuously for more than 30 days without proper sanction or intimation which is a gross misconduct under clause 19.5(p) of the Bipartite Settlement dated 19-10-1966.
- (iii) Submitting leave applications by giving false Medical certificates and false reasons of sickness, which is a gross misconduct under clause 19.5(m) of the Bipartite Settlement dated 19-10-1966.

(iv) Taking undue advantage of Bank's service, and engaging in fraudulent activities with a planned intention to misguide people and tarnishing the image of the Bank in the eyes of the people, which is gross misconduct under clause 19.5(j) of the Bipartite Settlement dated 19-10-1966.

(v) Misrepresenting to people as holding higher post in the Bank, giving false appointment letters for service in the Bank thereby causing irreparable loss to the name and reputation of the Bank, which is gross misconduct under clause 19.5(j) of the Bipartite Settlement dated 19-10-1966.

The Bank appointed Vijay M. Chalke as Enquiry Officer and D.W. Dumbhare as Presenting Officer. The Bank examined six witnesses. They were cross-examined by the second party workman. The second party workman was asked to bring the witnesses/documents but the second party workman said No. The Enquiry Officer requested both sides to submit their written briefs. The Presenting Officer submitted his written brief on 1-2-2003 and the second party workman submitted his written brief on 24-2-2003. The Enquiry Officer submitted his report to the Disciplinary Authority and a copy of the same was sent to the second party workman vide letter dt. 14-3-2003. The Disciplinary Authority vide his letter dt. 31-3-2003 advised the workman to submit his say on the enquiry report. The workman did not submit his say. The Disciplinary Authority issued letter dt. 29-5-2003 proposing the punishment of removal from service of the Bank and the second party workman was advised to remain present for personal hearing on 10-6-2003. The workman failed to appear on 10-6-2003. The Disciplinary Authority again advised the second party workman to remain present on 17-6-2003 but the second party workman failed to appear. The Disciplinary Authority for the third time gave an opportunity to the second party workman to remain present on 7-7-2003. The second party workman failed to appear. The Disciplinary Authority then passed a final order dt. 11-7-2003 imposing the punishment of removal from service of the Bank. The second party workman preferred an appeal but the same was dismissed by the Appellate Authority. According to the written statement the enquiry held against the second party workman was fair and proper and the findings arrived at by the Enquiry Officer are based on documentary and oral evidence. According to the written statement the workman is not entitled to any relief.

4. Following issues were framed:

- (1) Whether the enquiry held against the workman is not fair and proper?
- (2) Whether the findings of the Enquiry Officer are perverse?
- (3) Whether the action of the management in imposing the punishment of removal of Vijay

called upon to submit his explanation to the charge sheet before the inquiry officer who was Sri R. N. Saxena posted at Firozabad as branch manager. The aforesaid inquiry officer did not insist that the workman concerned may submit a detailed explanation to the aforesaid charges. He simply asked the claimant if he accepted the charges. On saying no the inquiry officer handed over some of the documents which were supposed to be relied upon by the management in the inquiry. He was not given copy of the inquiry report even though the workman concerned made special request for the same. He has refused on the ground of being confidential and privileged documents. The inquiry officer allowed three witnesses who were subjected to non bail-able warrant before Criminal Court; their names were Sri Dinesh Babu Rathi, Akhilesh Jalota and Tejender Pal Singh. Their testimonies before the inquiry officer were not to be considered trust worthy, yet the inquiry officer took their evidence in account in submitting his report. It is stated that the inquiry officer has submitted his report which is based on presumption. It is wrong to say that the workman concerned had taken out Rs. 8000 stealthily from the chest of the bank on previous dates. Whereas on 15-4-96 he was on leave and he had sent the keys through his wife and the person who took over the charge has counted the money similarly in the second charge which is regarding the alteration and addition in the cutting in the cheque is wrong. The charge is imaginary and has been concocted only for the purpose of issuance of charge sheet. This charge cannot be said to have been established against the workman concerned. The inquiry report is based on no evidence on both the charges; therefore, the inquiry is perverse.

5. Under these circumstances the workman filed a writ petition no.24748/97 when the show cause notice after the report was submitted was served on the workman on 2-6-97 before punishment. The said show cause notice was replied by the workman to be on safe side the workman had filed the aforesaid writ with stay application. The Hon'ble High Court Allahabad granted the following stay order on 6-8-97. The order is —

6. The disciplinary proceedings may however proceed but the decision thereof shall be subject to the writ petition.

7. Thus despite this order ignoring the aforesaid stay order party passed an order dated 16-8-97, which order is legally impugned also suffers from other lapses.

8. When the representation of the claimant for giving him his old assignment did not find favor then he raised an industrial dispute through union in 1997. That dispute was pending when he was served with a dismissal order dated 16-8-97 in granting the approval for his dismissal the provisions have not been followed therefore, the workman filed another writ petition no.8257 of 98 before the Hon'ble High Court in the mean time the union which had espoused the industrial dispute of giving the workman post of special

assistant had withdrawn the dispute and the bank could get the aforesaid writ petition dismissed on 20-4-99. The workman has not inflicted any pecuniary loss to the bank as the amount alleged to have been taken away by him manipulation of pack of Rs.500 notes has already been recovered by the bank on 14-12-01 after the punishment order was made. No employee can be punished twice; therefore, punishment order is also excessive and disproportionate.

9. The writ petition no.24748/97 and the amendment application to the writ petition had been withdrawn to raise the industrial dispute before the proper forum and the Hon'ble High Court has permitted the said withdrawal vide order dated 7-1-2003, where after the present reference was made by the appropriate government under the provisions of the I.D. Act.

10. On the basis of above allegations the claimant has prayed that the punishment order dated 16-8-97 could not have been passed and acted upon because of the stay order of the High Court and also because the suspension allowance was continued to be paid till June 1999 after late approval sought by the bank was wrongly granted.

11. Opposite party has filed the written statement contradicting the allegation of the claimant. It has been stated by the opposite party that while the claimant was working at SSI Branch Agra as cashier in-charge from December 1995 he was placed under suspension vide order dated 22-4-96 an dismissal order dated 16-8-97, was passed against the petitioner as he was found guilty of charges leveled against him vide charge sheet dated 16-8-96, which was served on him after conducting proper preliminary inquiry on the said charges. The claimant was paid subsistence allowance till June 1999 because the dismissal order dated 16-8-97, was subject to the approval by the ALC and the Hon'ble High Court Allahabad had also issued direction to keep the operation of ALCs order dated 12-1-98 in abeyance. It has been denied that the claimant was eligible for the post of Special Assistant after a period of three years from the date of his posting at SSI Branch Agra. It has been denied that the bank authorities had hatched any conspiracy in issuing the charge sheet to the petitioner. It has been stated that preliminary inquiry report is the privileged document of the opposite party and there is no mention of this document in the charge sheet so copy of this preliminary inquiry report was not supplied to the claimant. The opposite party has handed over all the documents to the claimant upon which the opposite party has relied.

12. It is stated that the inquiry report does not suffer from presumptions but is based on documents produced before the inquiry officer and circumstantial evidence and the evidence of the witnesses. The charges levelled against the CSE are not imaginary and concocted.

13. After the conclusion of the inquiry, show-cause notice was served upon the claimant, who has filed the

Anant Surve sub-staff from the services of the Bank by punishment order dt. 11-7-2003 is justified and proper?

- (4) Whether the punishment is disproportionate to the charges of misconduct levelled against Vijay Anant Surve?
- (5) Relief?

5. The second party workman did not file his affidavit and did not produce any evidence and, therefore, his evidence was closed as per order sheet dt. 27-2-2012.

6. Priya Vijay Surve wife of the second party workman Vijay Anant Surve has filed an application on 2-7-2012 that the second party workman has expired on 3-5-2012 and she, as his widow and legal heir, does not want to contest this matter and, therefore, it be disposed of accordingly. She has filed the death certificate of her husband Vijay Anant Surve together with the application.

7. In view of the fact that the second party workman has expired and considering the application filed by the widow of the second party workman that she does not want to contest the matter the reference may be disposed of on the ground that it is not prosecuted.

Consequently, the reference stands disposed of as not prosecuted.

Award is passed accordingly.

JUSTICE G. S. SAKRAF, Presiding Officer

नई दिल्ली, 6 अगस्त, 2012

का.आ. 2770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 20/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/85/2002-आई आर (बी-II)]  
शीश राम, अनुभाग अधिकारी

New Delhi, the 6th August, 2012

S.O. 2770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No 20/2003) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 1-8-2012.

[No. L-12012/85/2002-IR (B-II)]  
SHEESH RAM, Section Officer

#### ANNEXURE

#### BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR. Industrial Dispute No.20 of 2003

Between—

Sri Vinay Kumar Chaturvedi,  
C/o Sri JSP Pandey,  
101 B, Rajvila State Bank Building,  
Lucknow Branch  
Kanpur U.P. 20804.

And

Regional Manager, Bank of India,  
Jeewan Parkash,  
L1C Building,  
Sanjai Place,  
M.G. Road,  
Agra. 282002.

#### AWARD

1. Central Government, MoI, vide notification No. L-12012/85/2002/IR(B-II) dated 24-6-03/18.07 has referred the following dispute for adjudication to this tribunal

2. Whether the action of the management of Bank of India to impose the punishment of dismissal on Sri Vinay Kumar Chaturvedi vide order dated 16-8-97 is justified and legal? If not what relief the disputant workman is entitled to?

3. Brief facts are—

4. This admitted fact that the workman Sri V. K. Chaturvedi was appointed with the opposite party on 2-4-66 as clerk. It is also a fact that he was appointed on promotion as a special assistant in 1974 at Farrukhabad Branch, where he worked in the same capacity up to 1992. Thereafter on his personal request he was transferred and posted at SSI Branch of the Bank at Agra as cashier in charge in December 1995. During posting at Agra while working as cashier in charge he was served with a dismissal order vide order dated 16-8-97, however, even after the, punishment order dated 16-8-97 he continued to receive suspension allowance up to June 99. During posting at Agra he was allowed to work on a lower post as his transfer was on his own request but this could have been continued only up to three years. Thereafter he moved an application alleging that he may be posted as special assistant. This application annoyed the bank authorities and without any basis they hatched a conspiracy to charge sheets him on some concocted and not sustainable at all. After the preliminary inquiry in which the workman was never called upon to participate the same and which was done at the back of the workman, he was suspended and later on served with a charge sheet dated 16-8-96. No document was supplied to the workman along with the article of charges. He was without the set of documents and findings of the preliminary inquiry was

reply to the show-cause notice, which was considered by the disciplinary authority, and thereafter the disciplinary authority had passed the punishment order/dismissal order dated 16-8-97, making it effective from the date of approval from the ALC. The suspension allowance till June 1999, was paid to the claimant in view of the High Court's Stay order dated 17-3-98 to keep in abeyance the operation of the order dated 12-1-98 to the ALC and the said stay order was ceased vide High Court order dated 20-4-99.

14. It is stated that writ petition no. 8257 of 98 filed by the claimant before the Hon'ble High Court against the approval dated 12-1-98 of the ALC, the said writ petition was dismissed by the court on 20-4-99 on account of withdrawal of the writ petition by the claimant himself. Therefore, the interim order of the Hon'ble High Court to keep in abeyance the operation of the order dated 12-1-98 of the ALC also ceased vide order of the Hon'ble High Court dated 20-4-99.

15. It has also been stated that the recovery of misappropriated amount from the claimant does not mean that he had been absolved from the criminal liability of misappropriating the amount. Thus the claimant has not been punished doubly as alleged by him. The dismissal order is not excessive, therefore, they have prayed that the claim petition be dismissed and the inquiry officer has conducted in a just and fair manner and the charges have been proved against the claimant by the inquiry officer.

16. Rejoinder has also been filed by the claimant but nothing new has been pleaded therein except reiterating the fact already pleaded in the statement of claim.

17. Both the parties have adduced oral as documentary evidence. Claimant has adduced ten documents vide list 10/1. Opposite party has filed the original inquiry proceedings.

18. Claimant has produced himself as 'W.W.1 Vinay Kumar Chaturvedi. Opposite party has produced 4 witnesses, M.W.1 is Rajesh Narain Saxena, M.W.2 Sri Tejendra Pal Singh, M.W.3 D. Rathi and M.W.4 is Sri Sohan Lal Agrawal. No other witness has been produced.

19. It is the first contention of the A.R. of the W.R. that in the case of termination, it to be initially seen whether the domestic inquiry conducted by the opposite party is just and fair. Though the opposite party has refuted the contention saying, that when the whole evidence has been produced now the court can look in to the matter in one go. But the workman has cited certain rulings of the Hon'ble Apex Court saying that initially it should have been seen whether the domestic inquiry conducted was fair and legal. Agreeing with the view of the claimant I am looking into the aspect of the domestic inquiry conducted by the opposite party.

20. Opposite party has argued and contended it is a full fledged inquiry, the defense representative of the workman fully participated, he has thoroughly cross

examined the witness of the management and full opportunity was given to the defense to produce the evidence in defense. CSE has produced his evidence and produced in D.W. 1 Sri A.K. Sharma in his defense.

21. It has been stated by the opposite party that the workman was working at SSI Branch as cashier in charge at Agra, from December 1995, and he was placed under suspension vide order dated 22-4-96, and dismissal order was passed against the workman on finding that he was guilty of the charges levelled against him vide charge sheet dated 16-8-96 served on him and after conducting proper departmental inquiry on the said charges. It is fact that the CSE was transferred on his request and was posted at a lower post on the request of his transfer. It is contended by the workman that after three years he should have been posted as special assistant, though the opposite party said that there is no such provision under BPS. Though this point is not in issue but the claimant has alleged that because he has moved an application for promotion so the opposite party has hatched a conspiracy. This allegation has been refuted by the opposite party.

22. I have also seen the evidence and the circumstances in this respect, there does not appear to be any malafide on the part of the management in hatching a conspiracy on the point that the workman has given an application for his promotion. Therefore there is no force in such type of assertion made by the claimant.

23. Now the claimant has placed much stress on the point that he was not given any time to submit his explanation before the issuance of the charge sheet, secondly he has contended that the CSE was not supplied with a copy of preliminary inquiry report. I have gone through both the contentions thoroughly. The fact is that the charge sheet dated 16-8-96 was served upon the CSE along with a letter dated 16-8-96 by the disciplinary authority. Para 3 of this letter specifically states that ---

That at the time of inquiry you will be permitted to submit an explanation in writing to answer the charges against you mentioned in the charge sheet.

24. The workman has drawn my attention towards clause 19.12 of Bipartite Settlement which states - The procedure in such cases shall be as follows-

An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge sheet clearly setting forth the circumstances appearing against him and a date shall be fixed for the inquiry, sufficient time being given to him to enable him to prepare and give his explanation so also to produce any evidence that he may wish to tender in his defense.

25. According to these provisions there is no illegality committed by the management in serving the charge sheet. This provision clearly mentions that when the disciplinary authority proposes to take any disciplinary action then he shall serve a charge sheet upon an employee.

It does not pre-supposes that before issuing a charge sheet some explanation is required from the CSE. It clearly mentions that after issuance of charge sheet time has to be given to the CSE so that he may submit his explanation or the evidence.

26. Now I have seen the inquiry proceedings. It started on 9-9-96. Thereafter the inquiry proceeding went on in supplying the documents to the CSE to his satisfaction and ultimately on 18-11-96, all the copies were supplied to the CSE except the report of preliminary inquiry report. This has been admitted by the DR of the CSE that he had received all the documents and when a short date was given by the E.O. after 18-11-96, the DR sought time for one month but the inquiry officer fixed 2-12-96 as the next date in the inquiry, therefore right from 18-11-96 to 2-12-96, there was sufficient time for the CSE to submit his explanation. It is a fact that he cannot be forced to submit his explanation, the forwarding letter along with the charge sheet clearly state that CSE may submit his explanation but if he is not willing to submit then the inquiry proceedings will continue according to its own procedure. Therefore, a full fledged explanation of the workman in reply to the charge sheet was not essential at the preliminary stage of issuance of charge sheet. The employee was free to submit his explanation before the inquiry officer after he had received the documents during the inquiry; therefore, there is no merit in the contention of the claimant on this point.

27. It is also contended by the workman that a copy of the preliminary inquiry has not been supplied to the workman therefore a prejudice has been caused to him.

28. It is refuted by the opposite party saying that the preliminary inquiry is a internal departmental preliminary inquiry report.

29. I agree with the view of the opposite party that the charge sheet does not contain any reference of the preliminary inquiry report and if there is no reference in the charge sheet or if the inquiry officer has not taken into cognizance of this preliminary inquiry report then it cannot be said that a copy of this should have been supplied to the CSE. If the management has claimed that it was a privileged and confidential document and the EO has given a finding to that, I do not find EO has committed any mistake in law on this fact.

30. The charges against the employee are to be established on the evidence which have been produced by the management and not on the evidence which have not been produced; therefore no prejudice has been caused to the CSE on this point.

31. It is therefore, concluded that management has not committed any illegality in conducting the inquiry against the CSE from the initial stage and the workman was afforded adequate opportunity for his defense and the DR of the worker has also been provided full opportunity to

cross examine the witness of the prosecution. Therefore, it is held that no interference is called for in the conduct of the departmental inquiry against the employee concern.

32. Needless to mention here that the DR of the worker has admitted prior to 18-11-96 that copies all documents have been provided to him which are from page no.1 to 24 and sought time on the ground that he will have to go through the documents for further participating in the inquiry which was acceded to by the inquiry officer and he was allowed time up to 2-12-96. No other objection was pending before the EO from the side of the defense.

33. It has been found that there is no breach of any principle of natural justice while conducting the inquiry by the inquiry officer, there is no malafide on the part of the EO. The only contention was that he did not supply the copy of the preliminary inquiry report. I have given my findings specifically on this point.

34. It has also been alleged that the findings of the EO are perverse though in the prayer of the claim statement no such prayer has been made. But even then I have seen the report of the inquiry officer. Though this court cannot sit as an appellate court on the finding of the inquiry officer but still if the findings are perverse that can be looked into.

35. It is contended by the opposite party that to prove the charges against the CSE branch officials of the bank were produced no public witness was required to be produced to prove the misconduct of the CSE. The evidence of the manager, cashier etc., of the branch and the attending circumstances to the documentary evidence are material. It has been found on the basis of the evidence witnesses and the circumstantial evidence that the alteration in the cheques/bank's books was made by the CSE. The hand writing of the CSE as appearing on the said cheques and the banks books were identified by the witnesses of the inquiry who were familiar with the hand writing of the CSE. It has not been leveled in the charge sheet undecharge No.1 that the CSE misappropriated Rs.1 lack but the charge leveled was that he made attempt to misappropriate Rs.1 lack by making alterations in cheques/books. Therefore, the charge was not imaginary.

36. It is pertinent to mention that though it is not a criminal trial, till when the management has discharged his burden *prima facie* to prove against the CSE, then it becomes incumbent upon the CSE to produce himself as a witness in the defense and say on oath that he has not committed any such things. That he has not committed any alterations, that he has not misappropriate the amount of Rs.8000 from a packet of Rs.500. If he did not submit his explanation who was stopping him to be produced as witness and to say on oath that the whole story of the management is false. Moreover he took the opportunity to produce a witness in defense Sri A.K. Sharma. He is a very important witness he has carried out the investigation in this matter.

The questions were being asked by the DR to this witness, he clearly stated what type of alteration has been made in MEX-1 and 2. He has also stated the alterations made in MEX-6 and MEX-9. He has also stated that on the basis of movements of cheques and the instructions for the honoring customers cheques by bank official, the inference can be drawn that the alterations have been made after the cancellations of the cheques. It is a fact that the cheques and books etc. were in the custody of the cashier in charge who is CSE on that date. He has specifically stated at page 94 which is as below—

However some inference can be drawn on the basis of the fact that as to who are handling and possessing the books in which alterations have been made. In this particular case the books in which the alteration appears to have been made were handled by the cashier in charge solely or partly

37. Regarding misappropriation of the amount from the packet of Rs.500 denomination he has specifically stated that the packets of Rs.500 denomination notes remained in double control in cash safe throughout the day and he was (Mr. Sarna) was not having any opportunity to touch them before evening while closing the cash when these packets were counted by him in presence of custodian and a shortage of Rs.8000 was detected.

38. Therefore, the contention of the workman that Mr. Sarna might have misappropriated the amount does not hold good under the given circumstances. He has specifically stated that during the course of my investigation I have contacted almost all the staff members of the branch like Sri Rajiv Saxena and others including Sri V. K. Chaturvedi. All except Sri Chaturvedi had denied having made any alterations in the cheques. They had rather submitted that such alterations were not there when the cheques came to them in routine. Mr. Chaturvedi did not comment anything about the alterations. Again he stated that during investigation considering all the facts and circumstances he found that on MEX 2, Rs.1 lac was written in figure by Sri Chaturvedi.

39. Now it may be pointed out here that D.W.1 Sri A. K. Sharma appeared before the inquiry for giving his evidence from the side of the workman. Whatever evidence has been given by him before the inquiry officer under no circumstances could be ignored. He has given a very natural statement on the basis of preliminary inquiry which was investigated by him. There is no animosity in between the workman, and the investigating officer who conducted the preliminary investigation. Therefore A.R. of WR could not show any cogent reason why he has deposed such evidence which goes against the workman. Therefore, his evidence cannot be discarded.

40. Management has also produced Sri Rajesh Narain Saxena M.W.1, who was the inquiry officer, before the tribunal who has supported the case of the management that no rules of natural justice has been flouted, the

workman was given full and adequate opportunity of his defense at each and every stage during the conduct of inquiry by him, he was also given full opportunity to cross examine the management witness, therefore, from the evidence of the inquiry officer M.W.1 it is crystallized, that he has followed the rules governing the disciplinary action and the rules of natural justice. Therefore his evidence is believable.

41. I have seen the finding of the Inquiry Officer and the same cannot be termed as perverse finding. He has based his findings on the basis of evidence which was produced before him. He has not gone out of record. Moreover the bank has also produced the witness of fact to establish the charges against the CSE. A few lines of M.W. 4 Sri Sohan Lal Agarawal who was present on that day has stated on oath that he know the hand writing of Sri Chaturvedi and all these cuttings are in the hand writing of Sri Chaturvedi. There is no suggestion or any cross on this point by the CSE so his statement is un-rebutted on this point of cutting. Therefore, the version of the AR for the workman that the findings of the EO are contrary to the evidence does not hold good in my view.

43. It has been contended and prayed by the claimant that the order dated 16-8-97, may be held declared that it could not have been passed because of the stay order of the High Court and also because the suspension allowance was continued to be paid till June 1999 after late approval sought by the bank was wrongly granted.

44. His contention has been refuted by the opposite party saying that there was no such stay order passed by the Hon'ble High Court and if the opposite party passed any order against the direction or order of the Hon'ble High Court, it was incumbent upon the claimant to have moved the Hon'ble High Court in the same writ petition. The fact arising to this point are that the claimant has filed a writ petition no.24748 of 1997, after issuance of the show cause notice dated 2-6-97 proposing the punishment of dismissal from service. The workman submitted his reply dated 30-6-97 to the show-cause notice. The order passed by the Hon'ble High Court in the aforesaid writ is—

45. "List the case in the next week commencing soon and so. The disciplinary proceedings may however proceed but the decision there of shall be subject to the result of the writ petition."

46. This order has already been passed by the Hon'ble High Court before passing of the dismissal order by the bank.

47. The claimant in his claim statement has himself written that the writ petition (supra) and the amendment application to the writ petition filed before Hon'ble High Court Allahabad against the show-cause notice and punishment order has since been withdrawn to raise industrial dispute in the proper forum. The High Court has permitted the said withdrawal vide its order dated 7-1-03.

the Government of India, MoL, has issued the present reference order after being fully satisfied that there is no dispute of the nature referred pending either in Civil Court or the High Court.

48. The next contention that he was being paid continuously subsistence allowance till June 99, so order of dismissal passed on 16-8-97 is defective. I have gone through this contention also. Opposite party has stated that the workman continued to be paid his subsistence allowance firstly because of the order of the Hon'ble High Court and secondly that he has also raised dispute regarding his promotion which was pending before the ALC and approval was required to be sought from ALC while imposing the punishment though the order has been passed on 16-8-97. The ALC granted approval on 12-1-98 and the workman filed another writ petition 8257 of 98 against the approval and the said petition was dismissed by the court vide order date 20-4-99 on account of closure of the industrial dispute in question. As such the interim order of the Hon'ble High Court to keep the operation of the order dated 12-1-98 of the ALC was also ceased vide the said order dated 20-4-99. Under these circumstances the workman was continued to be paid subsistence allowance and therefore, I feel that the bank has not committed any illegality when it continued paying the subsistence allowance to the workman.

49. In such circumstances no fresh punishment order was required to be passed as the punishment order date 16-8-97 was clear that the order will be implemented from the date of approval from the ALC. Therefore, the order clearly stands in the eye of law.

50. It is also contended that the workman has been punished twice as Rs. 8000 the misappropriated amount has been recovered from the workman.

51. It is contended by the opposite party that this is not a double punishment. Punishment of dismissal from service was imposed for the proved misconduct committed by him. Misappropriated amount of R.8000 was recovered from the workman as an administrative action to make good the loss caused to the bank that too after giving show-cause notice for the same to the workman. All the above contention of the workman in the eye of law is not tenable.

52. In the end it is held that in view of reasons recorded in the body of the award tribunal comes at the conclusion that no illegality has been committed by the opposite party in its action as referred in the reference order and the punishment order is not required to be interfered with at the hands of this tribunal which has been passed according to law.

53. Consequently the workman is held entitled for no relief and the case is answered against the workman.

54. Reference is answered accordingly against the workman and in favour of the opposite party bank.

Dtd. 1-6-12

RAM PARKASH, Presiding Officer

नई दिल्ली, 6 अगस्त, 2012

**का.आ. 2771.—**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय सं. 1, धनबाद के पंचाट (संदर्भ संख्या 35/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/20/2007 आई आर (बी-II)]

शोश राम, अनुभाग अधिकारी

New Delhi, the 6th August, 2012

**S. O. 2771.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 35/2007) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 1-8-2012.

[No. L-12012/20/2007-IR (B-II)]

SHEESH RAM, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of I.D. Act.

#### Reference No. 35 of 2007

**Parties :** Employers in relation to the management of Central Bank of India.

AND

Their Workman

**Present :** Shri H.M. Singh, Presiding Officer

**Appearances:**

For the Employers : None

For the Workman : Shri N.N. Choudhary, Authorised Representative

State : Bihar Industry : Bank

Dated, the 20th July, 2012

#### AWARD

By Order No. L- 12012/20/2007-IR (B-II) Dtd. 4-7-2007 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Central Bank of India, Patna, Zonal Office, Patna in dismissing from service of Shri Dina Nath Tiwary, Clerk, Nath Nagar Branch, Bhagalpur, vide order dated 22-8-1996 on the charges founded in domestic enquiry and punishment given by the Disciplinary Authority is legal and or justified? If not, what relief Shri Dina Nath Tewary, Clerk is entitled to?”

2. The case of the concerned workman, in brief, is that he was in permanent service of the bank as clerk working at Nathnagar Branch in 1989. Sri C.S. Dubey lodged a false criminal case being Nathnagar P.S. Case No. 47/89 against the workman in which he got acquitted from court, Bhagalpur. Mean while on the basis of cooked up false allegations report of Sri C.S. Dubey, the Regional Manager, Gaya placed the workman under suspension on 17-2-89. Without conducting any enquiry the workman had been dismissed from the Bank's service on 19-2-1991. The proceeding thereto had been quashed by the Hon'ble High Court, Patna, vide order dated 13-8-93 passed in CWJC No. 5994/1991 with the liberty to the bank to proceed of fresh. Thereupon the Regional Manager, Gaya placed the workman under suspension vide order dated 6-9-93 illegally and arbitrarily. A chargesheet was issued on 6-10-1993 to the workman and the enquiry was conducted by Sri K.K. Srivasan. The material witnesses, namely, C.S. Dubey and seven A/c holders were not examined which caused prejudice to the workman. The management's witness Arvind Sharma could not identify the signature of the workman on the alleged counter foils and deposit, slips. The bonafide and genuineness of the complaints said to have been lodged by the aforesaid A/c Holders has been challenged by the workman in the enquiry and the workman claimed that complaints bear forged signatures and handwritings said to have been written and signed by A/c holders but the same have been manufactured by the then branch manager, C.S. Dubey to implicate the workman falsely. In their complaint the A/c Holders have not alleged that they entrusted the alleged amounts to the workman at Nathnagar branch or at any place to deposit the same in their aforesaid A/cs. Moreover without examination of the A/c holders in the enquiry to prove and support their complaints and to prove charges these complaints were inadmissible in evidence and can not be relied upon to prove charge of misappropriation against the workman. It has been submitted that Hon'ble High Court, Patna, finding serious illegalities in the enquiry and the impugned original order dtd. 22-8-1996 and final order of punishment dtd. 8-1-1997 quashed the final order of punishment vide order dtd. 3-9-1998 passed in CWJC No. 3336/1997 filed by the workman directing the Asstt. General Manager as under:

“Appellate Authority shall get the signature of the petitioner verified by an Expert. It is needless to say that in case the signature of the petitioner on verification by an expert on the counterfoils are proved then the Appellate Authority need not go into any other question.”

In compliance of the order of the Hon'ble High Court, Patna, the Appellate Authority sent the specimen signature of the workman, and seven counterfoils bearing disputed signature of the cashier to Police Laboratory C.I.D., Bihar, Patna who vide report dtd. 29-4-1999 opined that the specimen signature of the workman Dina Nath Tiwary, differs with the disputed signature on the counter foils but the Appellate Authority was not satisfied with the report. There is no order of dismissal of the workman on the record of Central Bank of India to be executed against him. The concerned workman is entitled to join the service on and from 3-9-1988 which was arbitrarily denied by the bank.

Under such circumstances it has been prayed that the Hon'ble Tribunal be pleased to answer the reference in favour of the workman by granting full back wages, increment and allowances w.e.f. 17-2-1989 with interest @18% compound. He is entitled to be designated as Special Asstt. w.e.f. 1-1-95 and is entitled to get salary and allowances thereof from 1-1-1995. He is entitled to retirement benefits including pension. The workman is also entitled to cost of litigation of Rs. 10,000.

3. The case of the management is that the charges against the workman have been duly and conclusively proved against him through evidence in the departmental proceeding which has been conducted strictly according to the established procedure of law. It has been submitted that Quasmi had deposited Rs. 37,000 actually on 10-12-1988 and entry has been made in the pass book on 10-12-1988 but later on it was found out that the amount was actually credited in his account on 19-12-1988. The account holder had informed the bank that he had not put the date in the pay in slip but the date in the voucher was put in red ink subsequently. It has been proved through evidence that the workman had accepted the cash on the relevant dates although he was not assigned the work of receiving cash. It has been stated that in view of the fact that in view of the fact that the workman has made the specimen signature quite different from his signature on disputed deposit slip etc. The management has denied all other statements made in the written statement of the workman.

4. In rejoinder to the written statement of the management, the workman has stated almost same facts as has been stated in his written statement.

5. The domestic enquiry was held to be not fair and proper on 29-3-2011.

6. The management has not produced any evidence after the enquiry was held to be not fair and proper.

The management produced documents which have been marked as Exts. M-1 to M-1/4.

The concerned workman has filed documents which have been marked as Exts. W-1 to W-26.

7. Main argument advanced on behalf of the concerned workman is that when the enquiry was held not fair and proper, so the disciplinary order passed by

the management cannot stand. The order of dismissal of the concerned workman by the management is illegal. It has also been argued that the reference has been given regarding following action by the management to give evidence after preliminary point that in domestic enquiry, which is against principles of natural justice. It has argued that the management failed to adduce evidence to prove the charge. The order passed by the management is not justified.

In this respect on behalf of the concerned workman reference has been made in 1975 AIR 1900, 1978 SC 1380, 1979 SC 1652, and 1975 SCC (2) 661 to see that when preliminary enquiry was held to be not fair and proper and dismissal order passed by the management cannot stand.

Another argument advanced on behalf of the concerned workman is that the counter-foil which is alleged to be money taken by the concerned workman. In this respect Hon'ble High Court, Patna ordered that the signature should be taken and should verified by the Expert as per order dated 24-3-2003 and 9-7-2004 as per Exts. W-25 and W-26 in CWJC No. 5667/2004.

When the management has clearly stated in written statement that the concerned workman was not authorised to take money from the customers so it shows that the management has not authorised the workman to take money and in counter-foils should have been get examined, the responsibility which has not been done by the management. The management failed to examine A/c holders to prove estrangement of alleged amounts with the workman. It is very much material that the customers should have been examined. The management also failed to examine Sri C.S. Dubey before the Tribunal. In para 8 of the management's written statement it is clearly stated that the workman was not assigned the work of receiving cash. In para 13 of the written statement of the management it has admitted that the specimen signature of the workman is different from the signatures appearing on the counterfoils. In this respect management's witness, P.K. Singh is material. He has stated that there is no fictitious entries in the ledger sheets of the A/c holders. Management's witness MW-1 has stated in his cross-examination that I have never worked with the concerned workman in any branch of the Bank. I have not examined the account holders whose names mentioned in the chargesheet. I do not remember if the concerned workman requested to present the concerned seven account holders in the enquiry proceeding. The customers Md. Ansoor Rahman Kazmi and Sravan Yadav Account Holders counterfoils receipt have been deposited or not I do not remember. The counterfoils of SB A/c 2744 Sravan Yadav has been filed in the enquiry proceeding. In the chargesheet the account No. of Sravan Yadav has been given as 2764. This letter dated 7-2-89 bears the name of Kailash Mandal without account number and amount. In the complaint of account holders it has not been mentioned that they have given cash to D.N. Tewary in the counter.

The concerned had demanded from me and the enquiry officer for comparison of the signature in the counterfoil with expert but that was not done. At the time of incident Sri C.S. Dubey was the Branch Manager. This incident relates to the year 1988-89. I have not examined any person officials of the branch on the date of incident. FIR lodged against the concerned workman.

The statement of the management's witness shows that no account holders has been examined. The signature in the counterfoils by the expert has not been examined. Moreover, there is no mention in the balance-sheet regarding misappropriated amount. No any officer of the bank has been examined regarding the incident. At that time Sri C.S. Dubey was Branch Manager. There is different account nos. of Sravan Yadav. His account No. is 2744 and in the chargesheet his account number is given as 2764. Regarding Kailash Mandal no account number has been given. All these facts show that when the management states that the concerned workman was not authorised to take money and no account holder was examined to say that they have given money to Sri Tewary. Moreover, vide order dated 13-8-93 the Hon'ble Patna High Court quashed the order of dismissal of the concerned workman and accordingly the concerned workman was reinstated in service 6-9-93 and was suspended vide order dated 6-9-93. It shows that the management was adamant to dismiss the workman. They have got to follow the order passed by the Hon'ble Patna High Court. It also shows that the management has get no regard regarding order passed by the Hon'ble Patna High Court. When the concerned workman has been acquitted from the learned court, Bhagalpur by 1st Class Judicial Magistrate, Bhagalpur in P.S. Case No. 47/89, so there no ground to dismiss him after that on the same matter.

8. Considering the above facts and circumstances, I hold that the action of the management of Central Bank of India, Patna, Zonal Office, Patna in dismissing from service of Shri Dina Nath Tewary, Clerk, Nath Nagar Branch, Bhagalpur vide order dated 22-8-1996, on the charges founded in domestic enquiry and punishment given by the Disciplinary Authority is not legal and justified. Accordingly, the order of the Disciplinary Authority dated 22-8-96 imposing the punishment of dismissal is hereby set aside. The administrative order dtd. 22-8-96 and order passed in appeal dtd. 17-4-2002 are also set aside, and the concerned workman is entitled to get full back wages, increments and allowances w.e.f. 17-2-89 till the date of his retirement and other retirement benefits. The management is directed to implement the award within two months from the date of publication of the award in the Gazette of India.

This is my Award.

H.M. SINGH, Presiding Officer  
नई दिल्ली, 7 अगस्त, 2012

का.आ. 2772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पारदीप पोर्ट

ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 45/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-7-2012 को प्राप्त हुआ था।

[सं. एल-38011/3/2007-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 7th August, 2012

**S. O. 2772.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 45/2007) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Paradip Port Trust and their workman, which was received by the Central Government on 24-7-2012.

[No. L-38011/3/2007-IR(B-II)]

SHEESH RAM, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present : Shri J. Srivastava,  
Presiding Officer, C.G.I.T. -cum-Labour  
Court, Bhubaneswar

**Industrial Dispute Case No. 45/2007**

**Date of Passing Award —29th May, 2012**

Between :

The Secretary, Paradip Port Trust,  
At/Po. Paradip, Dist. Jagatsinghpur  
.....1st Party-Management

AND

Their workman represented through the  
General Secretary, Paradip Port Workers  
Union, Badapadia, Paradip Port,  
Dist. Jagatsinghpur  
.....2nd Party-Union

#### Appearances:

Shri D. Patnaik, Authorized Representative	: For the 1st Party- Management
Shri Ananta Kumar Das General Secretary	: For the 2nd Party- Union

#### AWARD

The Government of India in the Ministry of Labour has referred the present industrial dispute existing between the management of Paradip Port Trust and their workman in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the

Industrial Disputes Act, 1947 vide their letter No. L-38011/3/2007-IR (B-II) dated 29-11-2007.

2. The schedule of reference given in the aforesaid letter was later amended vide corrigendum issued through letter of even No. dated 2-1-2008.

3. The dispute referred to is as follows:

Whether the action of the management of Paradip Port Trust in fixing pay scale of Shri Krishna Chandra Nanda in the revised pay scale of Traffic Foreman w.e.f. 4-3-2002 instead of 29-8-2000 as ACP benefits is granted w.e.f. 29-8-2000 to other employees is legal and justified?

4. The 2nd Party-Union who has espoused the cause of the disputant workman has filed the statement of claim and stated that there is no valid ground to discriminate Shri Nanda from getting the benefit of A.C.P. scheme which was extended to the Class-III and Class-IV employees with effect from 29-8-2000 and not from 4-3-2002. There are three clarifications issued by the Government of India with regard to financial up-gradations under the A.C.P. scheme i.e. "Assured Career Progression" Scheme. The concerned authorities either inadvertently or intentionally failed to understand the implications of the clarifications and denied the up-gradation to Shri Nanda from the eligibility date as has been done in the case of other employees. Shri Nanda got two promotions in the years 1980 and 1986 to the post of Senior Out Door Clerk and Assistant Traffic Foremen respectively. By virtue of bipartite wage revision settlement dated 1-1-1997 the pay scale of Senior O.D.C. and Asst. Foreman got merged and become one and the same. In clarification (b) as per Annexure-4 it was made clear that "if any promotion has been allowed in the past in grades which stand merged it will have to be ignored as already clarified in reply to point of doubt No. 1 of O.M. dated 10-2-2000 i.e. (a) Annexure. The said clarification states that "an employee who got promoted from lower pay scale to higher pay scale as a result of promotion before merger of pay scales shall be entitled for up-gradation under ACPs ignoring said promotion". On reference of the case of Shri Nanda along with some other employees in course of pay fixation under the ACP Scheme to the Resident Audit Officer of Paradip Port Trust it has been reported that Shri K.C. Nanda Asst. Traffic Foreman has completed 24 years of service before acceptance of A.C.P. Scheme by the Board of Trustees. So 2nd financial benefits may be given from the date of approval of the Board. The Management still persisted to continue the harassment and stick on its stand. The A.C.P. scheme incorporated in Para-31 of the settlement dated 2-8-2000 had retrospective effect to merger of scales only i.e. with effect from 1-1-1997. It contemplated two financial up-gradations after completion of 12 years and 24 years of regular service. Shri Nanda was promoted to the post of Asst. Traffic Foreman on 14-3-1986. He had completed 24 years of continuous service in 1999. He did not get any promotion for more than 14 years from the last date of his promotion on 14-3-1986. When the A.C.P. Scheme came

into force on 2-8-2000 he became entitled to the second financial up-gradation on notional basis while remaining in the post of Asst. Traffic Foreman. Had Shri Nanda not completed 24 years of service he would not have been eligible for the second up-gradation? The approach of the Management is wholly misconceived in taking two earlier promotions in a period of 11 years as a ground to deny the second up-gradation with effect from 29-8-2000 when the said A.C.P. scheme was applied to all employees of Paradip Port Trust. The Management has no discretion to introduce any extraneous factor such as restructuring of the cadre. Therefore the view expressed by the Management and the action taken in denying the second financial up-gradation with effect from 29-8-2000 is repugnant to the Constitutional mandate of Article 14 and 16 and derogatory to the very purpose of A.C.P. Scheme. It has therefore been prayed that the order of the Management dated 20-5-2003 be declared illegal and unjustified and direction be given to the management of the Paradip Port Trust to grant second financial up-gradation with effect from 29-8-2000 as per A.C.P. Scheme and fix his pay in the next higher grade pay of Traffic Foreman and pay all arrears due on this count.

5. The 1st Party-Management has filed written statement alleging that Shri K.C. Nanda has already availed of two regular promotion within a short span of 11 years i.e. much before the implementation of the A.C.P. Scheme on 2-8-2000. Therefore he does not come under the purview of A.C.P. Scheme and as such he is not eligible for financial up-gradation under the A.C.P. Scheme. The action of the Management in fixing pay scale of Shri Nanda in the revised pay scale of Traffic Foreman with effect from 4-3-2002 instead of 29-8-2000 on A.C.P. benefits is legal and justified. Consequent upon the restructuring of Out Door Clerk cadre of Traffic Department with effect from 4-3-2002, about 36 juniors of Shri Nanda were allowed pay scales of Traffic Foreman under the A.C.P. Scheme because of merger of the post of Senior Out Door Clerk with that of Assistant Traffic Foreman. Shri Nanda has been given Traffic Foreman scale with effect from 4-3-2002 i.e. from the date the Board of Trustee had approved the merger. On the contrary Shri Nanda claims grant of second financial up-gradation with effect from 2-8-2000, on the ground of merger, to the next higher scale of Traffic Foreman though the merger was done by the Board of Trustees vide Resolution No. 90/2001-02 dated 4-3-2002. To remove the anomaly of juniors getting higher pay scale than their seniors, additional financial benefits in the pay scale of Traffic Foreman to all eligible employees in the cadre of Asst. Traffic Foreman who had completed 24 years of service by 4-3-2002 was granted including Shri Nanda. Financial up-gradation cannot be allowed in the scale higher than the next promotional grade. In 1997 Wage Revision Committee, a lot of such pay scales had been combined and if a financial up-gradation is given to the next higher scale above the merged pay scale of the two

unlikely surmount the benefit of actual promotion leading to further anomaly involving a total review in different grades in the Port. In view of the above factual position Shri K.C. Nanda is not entitled to be given further financial benefits with effect from 2-8-2000. The Paradip Port Trust had furnished the details of the case to the Govt. of India vide letter dated 27-9-2003 and 9-10-2007 who has affirmed the view taken by the Management. The Resident Audit Officer has exceeded his jurisdiction in this case. Hence his advice has not been considered.

6. In view of the above pleadings following issues were framed.

### ISSUES

1. Whether the reference is maintainable?
2. Whether Shri Krushna Chandra Nanda is entitled to get ACP benefits with effect from 29-8-2000 instead from 4-3-2002 ?

7. On behalf of the 2nd Party-Union the disputant workman Shri Krushna Chandra Nanda has been examined as W.W-1 and documents marked as Ext. -A to Ext.-J have been relied.

8. On behalf of the 1st Party-Management Shri Aparash Kumar Dey has been examined as M.W.-1 and documents marked as Ext.-1 to Ext.-4 have been relied.

### FINDINGS

#### ISSUE NO. 1

9. This issue is redundant as no plea has been taken in this regard in the written statement by the 1st Party-Management. Even at the time of arguments nothing has been said with regard to the maintainability of the reference. Hence this issue is decided in the affirmative holding that the reference is maintainable.

#### ISSUE NO. 2

10. From the pleadings and the evidence led by both the parties it is apparently clear that the disputant workman Shri K.C. Nanda had got two promotions within a span of 11 years of service, one on 9-6-1980 from the post of Out Door Clerk to Senior Out Door Clerk and the other on 14-3-1986 from the post of Senior Out Door Clerk to the post of Assistant Traffic Foreman. In the wage settlement of 1997 posts of Senior Out Door Clerk and Assistant Traffic Foreman were clubbed up and a common scale of pay was prescribed. Under Clause-31 of the said settlement ACP Scheme was made applicable to Class-III and Class-IV employees. Under the said scheme two financial up-gradations were to be given to those employees who had not got regular promotion during the period of 12 and 24 years on completion of the above said two periods. On 29-12-2000 a circular was issued regarding financial up-gradation under ACP Scheme giving effect to from 29-8-2000.

11. According to the disputant workman he was given second ACP benefit with effect from 4-3-2002 where as it was intended to all other employees of the

Paradip Port Trust from 29-8-2000. By giving him second A.C.P. benefits from 4-3-2002 his juniors are said to be getting more pay scale than the disputant workman. Under Clause 31.3 of the National Wage Settlement of 1997 it has been provided that “clarification issued by the Government from time to time in respect of ACP will apply”. As per clarification No. 1 and 52 he is entitled to get second financial up-gradation in the A.C.P. Scheme from 29-8-2000. The Resident Audit Officer has also given a view in Para 3 of his letter dated 14-1-2006 to extend the second A.C.P. benefit to the disputant workman from 29-8-2000. The said report of the Audit Officer has been marked as Ext.-F.

12. The contention of the disputant workman has been repelled by the Management on the ground that Shri Nanda had already got his promotion twice before coming of the Settlement of 1997. So he is not entitled to be considered for ACP benefits. But in order to remove disparity of pay scales between juniors and seniors a cadre restructuring exercise was made by the Traffic Department, Paradip Port Trust so that juniors do not get higher pay scales than their seniors. This cadre restructuring was made on 4-3-2002 and accordingly benefits to Shri Nanda have been given from 4-3-2002. The Management witness No. 1 Shri Aparesh Kumar Dey in his cross-examination has stated that “the Paradip Port Trust’s ACP Scheme has been implemented with effect from 29-8-2000. In K.C. Nanda’s case ACP benefit was given from 4-3-2002 because it was the result of cadre restructuring made specially to address the anomalous situation arise out of juniors and seniors being placed in different pay scales. The benefit of ACP was not given from 29-8-2000 because by that time Shri Nanda has already availed two promotions”. He has further disclosed that “As per clause-52 the promotion of Shri Nanda will be ignored and ACP benefits is to be given to him ignoring the promotion to the post of A.T.F. (Assistant Traffic Foreman) which relates in the point of doubt No. 1 of Office Memorandum dated 10th Feb. 2000 of Government of India.” Clarification to Point of Doubt No. 1 as per Office Memo dated 10th Feb. 2000 of Government of India, Ministry of Personnel, Public Grievances and Pension. Ext.-C clarifies that “since the benefits of up-gradation under ACP Scheme (ACPS) are to be allowed in the existing hierarchy, the mobility under ACPS shall be in the hierarchy existing after merger of pay scales by ignoring the promotion. An employee who got promoted from lower pay scale to higher pay scale as a result of promotion before merger of pay scales shall be entitled for up-gradation under ACPS ignoring the said promotion as otherwise he would be placed in disadvantageous position vis-a-vis the fresh entrant in the merged grade”. Further in Clarification of Doubt No. 52 as per Ext.-D it has been stated that “Normally, it is incorrect to have a feeder grade and a promotional grade in the same scale of pay. In such cases, appropriate course of action is to review the cadre structure. If as a restructuring feeder and promotional posts are merged to

constitute one single level in the hierarchy, then in such a case, next financial up-gradation will be in the next hierarchical grade above the merged levels and if any promotion has been allowed in the past in grades which stand merged, it will have to be ignored as already clarified in reply to the Point of Doubt No. 1 of Office Memorandum dated 10-2-2000”.

13. Thus it is abundantly clear that the promotion given to Shri Nanda in the post of Assistant Traffic Foreman has to be ignored in view of the merger of the post of Senior Out Door Clerk and Assistant Traffic Foreman to the clubbed up post of Assistant Traffic Foreman. In this view of the matter Shri Nanda is entitled to get the second ACP up-gradation on completion of 24 years of service, but since the financial up-gradation under ACP Scheme was to take effect from 29-8-2000 as per Clause-C of Ext.-1, Shri Nanda should be given second ACP benefits from the above date as has been done in the case of other employees of the Paradip port Trust. The report of the Resident Audit Officer, Paradip Port Trust, Paradip Ext.-F seems to be correct. Accordingly the action of Management of Paradip Port Trust in granting A.C.P. benefits to Shri Nanda with effect from 4-3-2002 is held to be illegal, unjustified, incorrect and improper. He is entitled to get A.C.P. benefits with effect from 29-8-2000 as has been done in case of other employees. This issue is accordingly decided in favour of the disputant workman.

14. The 1st Party-Management is hereby directed to grant second ACP benefits to Shri K.C. Nanda and fix his pay in the revised pay scale of Traffic Foreman with effect from 29-8-2000 and pay all arrears within three months from the date of publication of this award.

15. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अगस्त, 2012

का.आ. 2773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय, नं. 2, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/4 ऑफ 2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 24-7-2012 को प्राप्त हुआ था।

[सं. एल-12011/35/2011 आई आर (बी II)]

शीशा राम, अनुभाग अधिकारी

New Delhi, the 7th August, 2012

S. O. 2773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. CGIT-2/4 of 2012) of the Central Government Industrial Tribunal/ Labour Court No.2, Mumbai now as shown in the Annexure, in the Industrial Dispute between the employers

in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 24-7-2012.

[No. L-12011/35/2011-IR (B-II)]

SHEESH RAM, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL No. 2, MUMBAI**

**PRESENT : K.B. Katake, Presiding Officer**

**Reference No. CGIT-2/4 of 2012**

**Employers in Relation to the Management of Bank of Maharashtra**

The Regional Manager  
Bank of Maharashtra  
Ratnagiri City Branch  
Distt. Ratnagiri (MS).

AND

Their Workman

The President  
Mahabank Navnirman Sena  
Rajgad, 202, Mathoshree Tower, 2nd floor  
Padmabai Takkar Marg, Mahim  
Mumbai-400 016

**Appearances:**

For the Employer : Mr. M.B. Anchan, Advocate  
For the Workman : No appearance

Mumbai, dated the 10th April, 2012

**AWARD**

The Government of India, Ministry of Labour & Employment by its Order No. L-12011/35/2011-IR (B-II), dated 19-1-2012 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of Bank of Maharashtra in terminating the services of Shri Mahendra S. Chiplunkar, Part Time Sweeper-cum-Sub Staff of Chiplun branch w.e.f. 11-5-2009 is legal and justified? What relief the concerned is entitled to?”

2. After receipt of the reference, notices were issued to both the parties. Meanwhile second party workman filed by post application dated 6-3-2012 (Ext.-5) for withdrawing the reference as he has been recruited as PTS at Burundi Branch w.e.f. 3-10-2011. Thereafter first party vide application dated 2-4-2012 (Ext.-6) (received by post) along with a copy of workman's withdrawing application prayed not to pursue the matter as the matter is settled.

3. On 10-4-2012 workman filed application dated 6-4-2012 (Ext.-7) through management stating that

presently he is member of Bank of Maharashtra Employees Union, Kolhapur and that he is not member of Mahabank Navnirman Sena. Further he states that there is no dispute between him and Bank of Maharashtra.

4. Since the dispute has been resolved and there is no dispute, I think it proper to dispose of the reference. Thus I pass the following order:

**ORDER**

Reference stands dismissed for want of prosecution. No order as to cost.

Date: 10-4-2012

K. B. KATAKE, Presiding Officer

नई दिल्ली, 7 अगस्त, 2012

**का.आ. 2774.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के रचाना (संदर्भ संख्या 50/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 3-8-2012 को प्राप्त हुआ था।**

[सं. एल-12012/45/2009 आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 7th August, 2012

**S. O. 2774.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 50/2010) of the Central Government Industrial Tribunal-cum-Labour Court Kanpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 3-8-2012.**

[No. L-12012/45/2009-IR (B-I)]

RAMESH SINGH, Desk Officer

**ANNEXURE**

**BEFORE SRI RAM PARKASH, I.I.S., PRESIDING  
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, KANPUR**

**Industrial Dispute No. 50 of 2010**

**Between**

General Secretary,  
State Bank of India Staff Association,  
13th Floor, State Bank of India,  
LHO, 11 Sansad Marg,  
New Delhi.

**Versus**

The Chief General Manager,  
State Bank of India,  
HRD, LHO, Motimahal Marg,  
Lucknow.

**AWARD**

1. Central Government MoL, vide notification No. L-12012/45/2009-IR(B-I) dated 28-5-2010, has referred the following dispute for adjudication to this tribunal.

2. Whether the demand of the State Bank of India Staff Association for regularization of services of Sri Jwahar Lal, Shesh Nath Mishr, Sant Prasad, Mangla Prasad, Raj Kumar, Gokaran, Ganga Prasad, Mahesh Dubey, Sadanand, Ram Chander and Nzma Khtoon by the management of Staff Training Centre at Gorakhpur and that of S/Sri Arvind Kumar Awthi, Anil Kumar Singh, Prabhakar Singh, Dinesh Kumar Shukla, Chhedi Lal (1st), Chhedi Lal (2nd), Ched Narain, Kailash Prasad, Ram Raj, Aslam, Pratap Kumar and Shitla Prasad Pandey by the Staff Training Centre Varanasi is legal and justified? If yes to what relief these workmen are entitled to?

3. Brief facts are—

4. After receipt of the aforesaid reference, a legal and factual objection was filed by the opposite party moving an application paper no. 19/1-3, alleging that since the State Bank of India Staff Association did not file the claim statement, before this tribunal, hence no claim award may be passed in the matter.

5. After hearing the parties this application was allowed and it was held that individuals could not file the claim statement as General Secretary State Bank of India Staff Association has been arrayed as the necessary party, Individuals have not been arrayed as a party. This application was allowed by a detailed order dated 1-2-2012. Thereafter this tribunal orally or otherwise fixed several dates and granted opportunities to the claimant side if they want to file any claim statement on behalf of the General Secretary, State Bank of India Staff Association, but they did not file any such claim statement.

6. Heard and perused the record.

7. In such circumstance it is to be held that no claim statement has been filed by the authorized party, therefore, the reference in the absence of claim statement, claim could not be decided in favour of the claimants. It is pertinent to mention that this reference is for regularization of services of Sri Jawahar Lal and other, hence in such circumstance this could be filed by the Association only.

8. Therefore, claimants have failed to prove their case in the absence of the claim statement as such the demand raised by the claimant could not be proved hence the reference is decided against the Association.

**RAM PARKASH**, Presiding Officer

नई दिल्ली, 7 अगस्त, 2012

**का.आ. 2775.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकारण, पटना**

के पंचाट (संदर्भ संख्या 07(C) of 2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 7-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/168/2008-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 7th August, 2012

**S. O. 2775.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. 07 (C) of 2009) of the Industrial Tribunal, Patna (Bihar) as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 7-8-2012.

[No. L-12012/168/2008-IR (B-I)]

RAMESH SINGH, Desk Officer

**ANNEXURE****BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA**

**Reference Case No. : 07(C) OF 2009**

Between the Chief General Manager, State Bank of India, LHO, Patna (Bihar) and their workman Sri Bipin Kumar Thakur S/o. Ram Chandra Thakur, Moh.- Rasulpur Dehela P.O. & Dist. Sahibganj, Sahibganj (Jharkhand).

For the management : Sri K.N. Gupta, Advocate

For the workman : Sri Satnarayan Pd. Chairman, District Labour Council, Sahibganj

**Present:** Sri Harish Chandra Singh, Presiding Officer Industrial Tribunal, Patna

**AWARD**

Patna, Dated: the 20th July, 2012

By adjudication order No. L-12012/168/2008-IR (B-I) dated 1-9-2009 the Central Government (Government of India) Ministry of Labour, New Delhi referred under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter to be referred to "the Act") the following dispute between the Management of State Bank of India, Patna (Bihar) and their workman for adjudication to the Central Government Industrial Tribunal, Patna.

"Whether the applicant Shri Bipin Kumar Thakur was workman of the Bank, If so, the action of the management of State Bank of India, Sahebganj in terminating the services of Sri Bipin Kumar Thakur is justified? If not, to what relief the concerned applicant is entitled?"

2. The case of the workman is that he was engaged as daily rated Worker by State Bank of India, Sahibganj Branch since 25-5-1998. He worked upto 5-10-2007. He worked for more than 240 days in each year. His educational qualification is Intermediate pass. Bank took various kind

of work from him. He was removed from service with effect from 26-10-2007 by oral order of Chief Manager of State Bank of India, Sahibganj Branch. No written order was served upon him. No compensation was paid u/s 25 of the I.D. Act. He was paid earlier @ Rs. 25 per day. For the year 2004 and onwards he was paid Rs. 40 per day. He was authorised to bring letters from post office. He worked in record room, bank hall, saving branch, P.B. Division, Agricultural Development Branch, Bank's Government Branch. He was paid Rs. 80 per day. In his pleadings he was given details of payment made to him during 1998-1999 as also payment made to him in the year 2003. For the period after 2003-2004 till 2007 payment was made to him through Sri Gopal Krishan Gupta owner of Chatra Pustak Bhandar, Sahibganj. Bank utilised his services but payment was made by Gopal Krishna Gupta through cheque in his name Sri Gopal Krishna Gupta was holder to C.C. account No. 01660070107. Bank took a bill of Rs. 2400 showing Supply of Stationary etc. and the amount of that bill was credited in C.C. account of Sri Gopal Krishna Gupta and then bank took cheque from Gopal Krishna Gupta drawn infavour of the workman. It was cashed and wages were paid to the workman. The workman was never engaged by Gopal Krishna Gupta or Chatra Pustak Bhandar. The workman was photographed in the bank with the field officer Sri D.K. Sinha. The workman raised an Industrial Dispute. After failure of conciliation proceedings the same has been referred to this Tribunal for adjudication.

3. The case of the management is that Sri Bipin Kumar Thakur is not a Workman. The question which has been referred for adjudication to this Tribunal is "Whether the applicant Sir Bipin Kumar Thakur was a workman of the Bank?" The case of the management is that the appropriate Government itself is not sure that Bipin Kumar Thakur was workman of the bank. This uncertainty makes the reference invalid, illegal & Incompetent. Sri Bipin Kumar Thakur was never employed by the bank and he is not workman. Reference itself is bad for that reason. The State Bank of India is a statutory Authority. There are rules and regulations having statutory force relating to recruitment, terms and conditions of service etc and there can not be any appointment dehors the rules and if there be any, it is wholly void-ab-initio. Sri Bipin Kumar Thakur was never appointed by the bank in any capacity to discharge any duty pertaining to the bank. However, since he was a local man, on some occasions as & when his services were required, he was engaged on contract basis or as daily wager for some days. For discharge of such contractual work or daily wage work, he used to be Negotiated for consideration amount. In 1998-99 Sahibganj Branch of the State Bank of India shifted to new premises. Sri Thakur was entrusted with the work of shifting and for that purpose a sum of Rs. 9525 was paid to him. In January, 2003 he was engaged for 27 days for bringing drinking water and he was paid Rs. 675 @ Rs. 25 per days. It is denied that he worked for more than 240 days in one

calendar year under these circumstances there was no need for compliances of 25 of I.D. Act.

4. On the basis of pleadings following questions arise in this reference for decision:-

- (i) "Whether Sri Bipin Kumar Thakur was a workman of the bank for that purpose whether he has proved that he worked for 240 days or more within 12 month's immediately preceding the date of termination of his service?"
- (ii) "If so, the action of the management of State Bank of India is termination of his service is justified?"
- (iii) "To what relief the workman Sri Bipin Kumar Thakur is entitled to?"

#### FINDINGS

5. Issue No. (i) :- The main question in this reference is whether Sri Bipin Kumar Thakur is a workman. The case of Sri Thakur is that he was engaged by the State Bank of India, Sahebganj Branch as a daily wager since 25-5-1998 to 25-10-2007 and he worked for more than 240 days in each year. It is settled law in such cases the onus is of the workman to prove that he worked for 240 days or more within 12 calendar month's immediately preceding the date of termination of his service. In this case the bank has denied the engagement of Bipin Kumar Thakur as a daily wages employee. However, only this much is admitted that in the year 1998-99 and 2003 his services were taken for certain work as and when required particularly for shifting of branch to new premises. Workman has examined himself as W.W.-I. He stated that he was engaged by the Chief Manager of State Bank of India main branch, Sahebganj from 25-5-1998 to 25-10-2007 on daily wages. In each year he worked for more than 240 days. In some year he worked for more than Three Hundred days. He worked in stationary section, record room, bank godown, Government branch, Government bill branch and he was sent to post office to collect letters and dispatch letters. He carried cash from old bank to new bank. He searched vouchers and other documents also. Earlier he was paid @ Rs. 25 day. Later on since 2004 he was paid @ Rs. 40 per day. Thereafter on he was paid @ Rs. 80 per day. But after 2003-04 till October, 2007 payment was made to him under a strange manner adopted by the bank. One Gopal Krishna Gupta owner of Chatra Pustak Bhandar was having C.C. account. He was paid after taking a cheque on cash of credit basis. He has stated the account No. of Sri Gopal Krishna Gupta i.e. 01660070107. He has stated that bank took a bill of Rs. 2400 from Chatra Pustak Bhandar regarding supply of stationery and the amount of that bill was credited to C.C. account of Gopal Krishna Gupta and later on cheque was taken from Gopal Krishna Gupta and amount of that cheque was paid to him. On 26-10-2007 he was removed by the Chief Manager by oral order. The workman has produced demand letters dtd.

11-2-2008 which is Exts. W/1. Demand letter dtd. 28-5-2008 is Ext. W/2./Ext. W/3 & W/4 are postal receipts and photo copies of postal receipt. Exts. W/14 is photograph of the workman with field officer of State Bank of India. Exts. W/5 series numbering Ext.-W/5 -1to Ext.W-5-42 are vouchers regarding payment to the workman and Exts. W/6 to W/12 are photo copies of cheque. All the vouchers Exts. W/5 series are regarding payment for the period of 1998-99. Photo copies of cheque Exts. W/6, W/7, W/8, W/9, W/10, W/11 are also related to 1998-99 Exts. W/12 is regarding Payment of Rs. 625 in Feb., 2003. Thus there is no documents to show that Bipin Kumar Thakur worked in the bank within 12 calendar month's immediately preceding the alleged the date of his removal. There is no documents to show any work done by the Bipin Kumar Thakur in State Bank of India, Sahibganj branch after 2003 and any payment to made to him. According to the workman himself after 2004 payment was made to him from account of owner of Chatra Pustak Bhandar named Gopal Krishna Gupta but there is no document to prove that any payment was made to him in this manner. The workman did not take any step to call for any record from the Bank to show payment to him to this method. Thus in this case there is absolutely no evidence except self-serving statement of workman to prove that he worked for 240 days or more within 12 calendar month's immediately preceding the date of his alleged removal. Bank also examined M.W.-1 D.K. Sinha and MW-2 Byes Pd. Choudhary. In their oral evidence they have stated that Bipin Kumar Thakur was engaged in the year-1989-99 and 2003 for some work as and when required. He never worked for 240 days or more in one calendar year.

6. In view of the above discussions of the facts and evidence on record I have come to the conclusion that Bipin Kumar Thakur has failed to prove that he worked for 240 days or more within 12 calendar month's immediately preceding his alleged date of removal. Under such circumstances there is no question of his removal or dismissal from service and compliance of Section-25 F of the Industrial Dispute Act. Bipin Kumar Thakur (Workman) is not entitled to any relief.

And this is my award.

HARISH CHANDRA SINGH, Presiding Officer  
नई दिल्ली, 7 अगस्त, 2012

का.आ. 2776.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम.न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 80/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 7-8-2012 को प्राप्त हुआ था।

[सं. एल-12012/120/2008-आई आर (बी-1)]  
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 7th August, 2012

S. O. 2776.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 80/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 7-8-2012.

[No. L-12012/120/2008-IR (B-1)]

RAMESH SINGH, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INSUTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

#### PRESENT:

SHRI J. SRIVASTAVA,  
Presiding Officer, C.G.I.T. -cum-Labour  
Court, Bhubaneswar.

Industrial Dispute Case No. 80/2008

Date of Passing Award-24th July, 2012

#### Between:

The, Asst, General Manager,  
State Bank of India, Bapujinagar Branch,  
Dist. Khurda, Orissa, Bhubaneswar (Orissa)  
..... 1st Party-Management

#### AND

Their workman Sri Gouranga Nayak,  
Qr. No. VR-5/1, Kharvela Nagar, Unit-3,  
Bhubaneswar (Orissa)

..... 2nd Party-Workman

#### Appearances:

Shri Alok Das,	.... For the 1st Party-Management
Authorized Representative	
None	.... For the 2nd Party-Workman

#### AWARD

The Government of India in the Ministry of Labour has referred the present dispute existing between the employers in relation to the Management of State Bank of India and their workman under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Letter No. L-12012/120/2008-IR(B-1), dated 14-10-2008 to this Tribunal for adjudication to the following effect:

“Whether the action of the management of State Bank of India, Bhubaneswar Main Branch in terminating services of Sri Gouranga Nayak w.e.f. 30-9-2004 is fair, legal and justified? To what relief is the workman concerned entitled”?

2. The 2nd Party-Workman has filed his statement of claim alleging that he had joined his services as a Messenger on 17-12-1991 after succeeding in interview. He was assured to get permanent appointment order after

one year or on completion of 240 days' work in a calendar year, but despite completion of several years of continuous satisfactory service and putting in more than 240 days' work in each year he was not regularized, instead terminated and refused employment from 30-9-2004 by the 1st Party-Management without any written communication or payment of compensation. The 1st Party-Management in refusing employment to him violated all principles of natural justice and mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. He therefore brought the matter into the notice of the C.G.M. and C.D.O. of the State Bank of India, L.H.O., Bhubaneswar. But on hearing nothing, he raised an industrial dispute before the Regional Labour Commissioner (Central) vide his letter 5-11-2007. Conciliation proceedings were started, but they failed and thereupon a failure report was submitted to the Government and the Government made the present reference. He is thus entitled to get full back wages and reinstatement with continuity of service with effect from 30-9-2004.

3. The 1st Party-Management in its reply through written statement has stated that the present dispute is misleading and misconceived in as much as the 2nd Party-workman had already raised a similar dispute along with 124 other workers through the State Bank of India Temporary 4th Grade Employees Union before the Assistant Labour Commissioner (Central), Bhubaneswar challenging their alleged termination of service by the 1st Party-Management. In the said dispute the failure report was sent by the Asst. Labour Commissioner (Central), Bhubaneswar to the Ministry of Labour who in turn referred the matter to this Tribunal for adjudication and the same is pending before this Tribunal being I.D. Case No. 7/2007. The name of the 2nd Party-workman is appearing at Sl. No. 60 in Annexure-A to the said reference. Thus, raising a common dispute for same cause of action and again raising individual dispute for same relief is nothing but an abuse of the process of law and amounts to multiplicity of litigation. The Asst. Labour Commissioner (Central) while conciliating the individual disputes disregarded the direction of the Deputy Chief Labour Commissioner (Central) not to take any further action on the separate disputes raised by the same workers for the same cause of action. The allegation of the 2nd Party-workman that he had joined the Bank in the year 1991 and he was discontinued from service on 30-9-2004 is not correct. It is also not correct that he was signing bogus voucher. He was engaged intermittently on temporary/daily wage basis due to exigencies of work. It is further denied that he was performing his duties with all sincerity and honesty and to the best of satisfaction of the Authority. The 2nd Party-workman has neither completed several years of continuous service in the Bank nor he has completed 240 days of continuous service in any calendar year preceding the date of his alleged termination. In order to give an opportunity for permanent absorption to the ex-temporary

employees/daily wagers in the Bank in view of the various settlements entered into between the All India State Bank of India Staff Federation and the Management of the State Bank of India all eligible persons were called for interview. The Union or the 2nd Party-workman has never challenged the implementation of the settlement which has now gained finality. It is further submitted that some of the wait-listed candidates, who could not be absorbed in the Bank's service due to expiry of the panel on 31st March, 1997 filed Writ Petitions before the Hon'ble High Court of Orissa. But the Hon'ble High Court of Orissa by a common order dated 15-5-1998 passed in O.J.C. No. 2787/1997 dismissed a batch of Writ Petitions and upheld the action of the Management of the Bank. This order of the Hon'ble High Court was also upheld by the Hon'ble Supreme Court of India in S.L.P. No. CC-3082/1999. Hence the above matter has attained finality and cannot be re-agitated. Since the services of Sri Nayak were discontinued much earlier to 30-9-2004 his claim has stale by raising the dispute after long years. It is a settled principle of law that delay destroys the right to remedy. Thus the present dispute is liable to be rejected on the above grounds.

4. On the pleadings of the parties following issues were framed:-

## ISSUES

1. Whether the present reference of the individual workman during the pendency of the I.D. Case No. 7/2007 before this Tribunal on the same issue is legal and justified?
2. Whether the workman has worked for more than 240 days as required under Section 25-F of the Industrial Disputes Act?
3. Whether the action of the Management of State Bank of India, Bhubaneswar Main Branch, Bhubaneswar in terminating the services of Shri Gouranga Nayak, w.e.f. 30-9-2004 is, fair, legal and justified?
4. To what relief is the workman concerned entitled?

5. The 2nd Party-workman despite giving sufficient opportunity did not produce any evidence either oral or documentary in support of his claim and willingly kept himself out of the proceedings at the stage of evidence by absenting himself or his Union representative.

6. The 1st Party-Management has adduced the oral evidence of Shri Abhay Kumar Das as M.W.-1 and filed documents marked as Ext.-A to Ext. J in refutation of the claim of the 2nd Party-workman.

## FINDINGS

### Issue No. 1

7. A specific plea has been raised by the 1st Party-Management that a group of 125 employees including the

2nd Party-workman had already raised a similar dispute in I.D. Case No. 7/2007 before this Tribunal for the same relief which is pending for adjudication. The dispute as referred to in I.D. Case No. 7/2007 is given below for comparison with the dispute in the present case-

Whether the action of the Management of State Bank of India, Orissa Circle, Bhubaneswar in not considering the case of 125 workmen whose details are in Annexure-A for re-employment as per Section 25(H) of Industrial Disputes Act, 1947 is legal and justified? If not, what relief the workmen are entitled to?

8. The name of the 2nd party-workman appears at Sl. No. 60 in Annexure-A to the above reference. In both the cases the matter of disengagement or so called retrenchment is involved to be considered in one or the other way and the relief claimed is with regard to re-employment. But challenge has been made more specifically against the termination of service of the 2nd Party-workman in the present case while in I.D. Case No. 7/2007 prayer has been made with regard to consideration of the case of 125 workmen for re-employment as per Section 25-F of the Industrial Disputes Act, 1947. In fact in the latter case the workmen have submitted or virtually surrendered to their cessation of employment or alleged termination, whereas in the present case they have challenged their termination on facts and law. Virtually in the present case validity and legality of the alleged termination has to be tested at the alter of facts and legal propositions. Therefore it cannot be said that the issues involved in both the cases are same. This case can proceed despite pendency of I.D. Case No. 7/2007 and the present reference by the individual workman pending for adjudication is maintainable being legal and justified. This issue is therefore decided in the affirmative and against the 1st Party-Management.

#### Issue No. 2

9. The onus to prove that the 2nd Party-workman has completed one year or 240 days of continuous service during a period of 12 calendar months preceding the date of his alleged termination or disengagement from service lies on him, but the 2nd Party-workman has not adduced any evidence either oral or documentary in support of his contention. He has only alleged in his statement of claim that he had joined the service in the year 1991 and worked till 30-9-2004 on temporary/casual/daily wage basis, but he has not filed any certificate or reliable document showing the break-up of year-wise service rendered by him under the 1st Party-Management during the above period. The 1st Party-Management, on the other hand, has alleged that the 2nd Party-workman was engaged intermittently on temporary/daily wage basis due to exigencies of work and he had never completed 240 days continuous service in a calendar year. M.W.-I Shri Abhaya

Kumar Das in his statement before the Court has stated that "the disputant was working intermittently for few days in our Branch on daily wage basis in exigencies..... He had not completed 240 days of continuous and uninterrupted service preceding the alleged date of the termination". He has denied the allegation that the workman was discontinued from service with effect from 30-9-2004, but has stated that "In fact the workman left working in the Branch in 1995" The 2nd Party-workman has to disprove the evidence led by the 1st Party-Management, but he has not come before the Court to give evidence. A temporary or daily wage worker has no right to claim reinstatement and particularly when such an employee had not worked for 240 days continuously during a period of 12 calendar months preceding the date of his so-called termination. Thus he is not entitled to get benefit of Section 25-F of the Industrial Disputes Act, 1947. This issue is hereby decided against the 2nd Party-workman for failing to prove that he has worked for 240 days continuously during a period of 12 calendar months preceding the date of his disengagement or alleged termination from service.

#### Issue No. 3

10. Since the 2nd Party-workman could not prove that he had rendered 240 days continuous service under the 1st Party-Management during a period of 12 calendar months preceding the date of his disengagement or alleged termination, he is not entitled for re-employment even in case of his alleged illegal and arbitrary termination. Moreover, he was a temporary/casual/daily wage employee. His services can be terminated at any time without assigning any cause by the 1st Party-Management. He has no legal right to be retained in service for the extended period, if he was appointed for a certain period or when no time is specified. The 2nd Party-workman has not filed any letter of appointment or proof of having rendered service under the 1st Party-Management for a specified period against a regular post. The 1st Party-Management has further alleged that in time of exigencies only the 2nd Party-workman was employed. It means that with the end of exigencies his job also came to an end. In view of the matter the action of the management of State Bank of India, Bhubaneswar Main Branch in terminating the services of Sri Gouranga Nayak with effect from the alleged date of his termination is fair, legal and justified. This issue is accordingly decided in the affirmative and against the 2nd Party-workman.

#### Issue No. 4

11. In view of the findings recorded above under Issues No. 2 and 3, the 2nd Party-workman is not entitled to any relief whatsoever claimed.

12. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 अगस्त, 2012

**का.आ. 2777.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचात (संदर्भ संख्या 77/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 7-8-2012 को प्राप्त हुआ था।**

[सं. एल-12012/115/2008-आई आर (बी-1)]  
रमेश सिंह, डेरक अधिकारी

New Delhi, the 7th August, 2012

**S.O. 2777.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 7-8-2012.**

[No. L-12012/115/2008-IR (B-I)]  
RAMESH SINGH, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

##### Present :

Shri J. Srivastava, Presiding Officer,  
C.G. I.T.-cum-Labour  
Court, Bhubaneswar.

##### INDUSTRIAL DISPUTE CASE No. 77/2008

Date of Passing Award - 17th July, 2012

##### Between:

The Asst. General Manager,  
State Bank of India, Bapujinagar Branch,  
Dist. Khurda, Orissa, Bhubaneswar (ORISSA)

... 1st Party-Management.

And

Their workman Sri Kanhu Charan Mallick,  
Qr. No. VR-5/1, Kharvela Nagar, Unit-3,  
Bhubaneswar. (ORISSA)

... 2nd Party-Workman.

##### Appearances:

Shri Alok Das,  
Authorized Representative.  
None.

For the 1st Party-  
Management.  
For the 2nd Party-  
Workman.

#### AWARD

The Government of India in the Ministry of Labour has referred the present dispute existing between the employers in relation to the Management of State Bank of India and their workman under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their Letter No. L-12012/115/2008-IR (B-I) dated 13-10-2008 to this Tribunal for adjudication to the following effect :

“Whether the action of the management of State Bank of India, Bhubaneswar Main Branch in terminating the services of Sri Kanhu Charan Mallick w.e.f. 30-9-2004 is fair, legal and justified? To what relief is the workman concerned entitled ?”

2. The 2nd Party-Workman has filed his statement of claim alleging that he had joined his services as a Messenger on 3-3-1997 after succeeding in interview. He was assured to get permanent appointment order after one year or on completion of 240 days work in a calendar year, but despite completion of several years of continuous satisfactory service and putting in more than 240 days' work in each year he was not regularized, instead terminated and refused employment from 30-9-2004 by the 1st Party-Management without any written communication or payment of compensation. The 1st Party-Management in refusing employment to him violated all principals of natural Justice and mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. He therefore brought the matter into the notice of the C.G.M. and C.D.O. of the State Bank of India, L.H.O., Bhubaneswar. But on hearing nothing, he raised an industrial dispute before the Regional Labour Commissioner (Central) vide his letter dated 31-10-2007. Conciliation proceedings were started, but they failed and thereupon a failure report was submitted to the Government and the Government made the present reference. He is thus entitled to get full back wages and reinstatement with continuity of service with effect from 30-9-2004.

3. The 1st Party-Management in its reply through written statement has stated that the present dispute is misleading and misconceived in as much as the 2nd Party-workman had already raised a similar dispute along with 124 other workers through the State Bank of India Temporary 4th Grade Employees Union before the Assistant Labour Commissioner (Central), Bhubaneswar challenging their alleged termination of service by the 1st Party-Management. In the said dispute the failure report was sent by the Asst. Labour Commissioner (Central), Bhubaneswar to the Ministry of Labour who in turn referred the matter to this Tribunal for adjudication and the same is pending before this Tribunal being I.D. Case No. 7/2007. The name of the 2nd Party-workman is appearing at S1. No.57 in Annexure-A to the said reference. Thus, raising a common dispute for same cause of action and again raising

individual dispute for same relief is nothing but an abuse of the process of law and amounts to multiplicity of litigation. The Asst. Labour Commissioner (Central) while conciliating the individual disputes disregarded the direction of the Deputy Chief Labour Commissioner (Central) not to take any further action on the separate disputes raised by the same workers for the same cause of action. The allegation of the 2nd Party-workman that he had joined the Bank in the year 1997 and he was discontinued from service on 30-9-2004 is not correct. It is also not correct that he was signing bogus voucher. He was engaged intermittently on temporary/daily wage basis due to exigencies of work. It is further denied that he was performing his duties with all sincerity and honesty and to the best of satisfaction of the Authority. The 2nd Party-workman has neither completed several years of continuous service in the Bank nor he has completed 240 days of continuous service in any calendar year preceding the date of his alleged termination. In order to give an opportunity for permanent absorption to the ex-temporary employees/daily wagers in the Bank in view of the various settlements entered into between the All India State Bank of India Staff Federation and the Management of the State Bank of India all eligible persons were called for interview. The Union or the 2nd Party-workman has never challenged the implementation of the settlement which has now gained finality. It is further submitted that some of the wait-listed candidates, who could not be absorbed in the Bank's service due to expiry of the panel on 31st March, 1997 filed Writ Petitions before the Hon'ble High Court of Orissa. But the Hon'ble High Court of Orissa by a common order dated 15-5-1998 passed in O.J.C. No. 2787/1997 dismissed a batch of Writ Petitions and upheld the action of the Management of the Bank. This order of the Hon'ble High Court was also upheld by the Hon'ble Supreme Court of India in S.L.P. No. CC-3082/1999. Hence the above matter has attained finality and cannot be re-agitated. Since the services of Sri Mallick were discontinued much earlier to 30-9-2004 his claim has become stale by raising the dispute after three years. It is a settled principle of law that delay destroys the right to remedy. Thus the present dispute is liable to be rejected on the above grounds.

4. On the pleadings of the parties following issues were framed :-

#### ISSUES

1. Whether the present reference of the individual workman during the pendency of the I.D. Case No. 7/2007 before this Tribunal on the same issue is legal and justified ?
2. Whether the workman has worked for more than 240 days as required under Section 25-F of the Industrial Disputes Act ?
3. Whether the action of the management of State Bank of India, Bhubaneswar Main Branch, Bhubaneswar in terminating the services of

Shri. Kanhu Charan Mallick w.e.f 30-9-2004 is, fair, legal and justified ?

4. To what relief the workman concerned entitled?

5. The 2nd Party-workman despite giving sufficient opportunity did not produce any evidence either oral or documentary in support of his claim and willingly kept himself out of the proceedings at the stage of evidence by absenting himself or his Union representative.

6. The 1st Party-Management has adduced the oral evidence of Shri Abhay Kumar Das as M.W.-1 and filed documents marked as Ext.-A to Ext.-J in refutation of the claim of the 2nd Party-workman.

#### FINDINGS

##### ISSUE No. 1

7. A specific plea has been raised by the 1st Party-Management that a group of 125 employees, including the 2nd Party-workman had already raised a similar dispute in I.D. Case No. 7/2007 before this Tribunal for the same relief which is pending for adjudication. The dispute as referred to in I.D. Case No. 7/2007 is given below for comparison with the dispute in the present case -

“Whether the action of the Management of State Bank of India, Orissa Circle, Bhubaneswar in not considering the case of 125 workmen whose details are in Annexure-A for re-employment as per Section 25(II) of Industrial Disputes Act, 1947 is legal and justified? If not, what relief workmen are entitled to?”

8. The name of the 2nd party-workman appears at S1, No. 57 in Annexure-A to the above reference. In both the cases the matter of disengagement or so called retrenchment is involved to be considered in one or the other way and the relief claimed is with regard to re-employment. But challenge has been made more specifically against the termination of service of the 2nd Party-workman in the present case while in I.D. Case No. 7/2007 prayer has been made with regard to consideration of the case of 125 workmen for re-employment as per Section 25-II of the Industrial Disputes Act, 1947. In fact, in the latter case the workmen have submitted or virtually surrendered to their cessation of employment or alleged termination, whereas in the present case they have challenged their termination on facts and law. Virtually in the present case validity and legality of the alleged termination has to be tested at the alter of facts and legal propositions. Therefore it cannot be said that the issues involved in both the cases are same. This case can proceed despite pendency of I.D. Case No. 7/2007 and the present reference by the individual workman pending for adjudication is maintainable being legal and justified. This issue is therefore decided in the affirmative and against the 1st Party-Management.

##### ISSUE No. 2

9. The onus to prove that the 2nd Party-workman has completed one year or 240 days of continuous service

during a period of 12 calendar months preceding the date of his alleged termination or disengagement from service lies on him, but the 2nd Party-workman has not adduced any evidence either oral or documentary in support of his contention. He has only alleged in his statement of claim that he had joined the service in the year 1997 and worked till 30-9-2004 on temporary/casual/daily wage basis, but he has not filed any certificate or reliable document showing the break-up of year-wise service rendered by him under the 1st Party-Management during the above period. The 1st Party-Management, on the other hand, has alleged that the 2nd Party-workman was engaged intermittently on temporary/daily wage basis due to exigencies of work and he had never completed 240 days continuous service in a calendar year. M.W.-1 Shri Abhaya Kumar Das in his statement before the Court has stated that "the disputant was working intermittently for few days in our Branch on daily wage basis in exigencies..... He had not completed 240 days of continuous and uninterrupted service preceding the alleged date of the termination". He has denied the allegation that the workman was discontinued with effect from 30-9-2004, but has stated that "Infact the workman left working in the Branch in 1997" The 2nd Party-workman has to disprove the evidence led by the 1st Party-Management, but he has not come before the Court to give evidence. A temporary or daily wage worker has no right to claim reinstatement and particularly when such an employee had not worked for 240 days continuously during a period of 12 calendar months preceding the date of his so-called termination. Thus he is not entitled to get benefit of Section 25-F of the Industrial Disputes Act, 1947. This issue is hereby decided against the 2nd Party-workman for failing to prove that he had worked for 240 days continuously during a period of 12 calendar months preceding the date of his disengagement or alleged termination from service.

### ISSUE No.3

10. Since the 2nd Party-workman could not prove that he had rendered 240 days continuous service under the 1st Party-Management during a period of 12 calendar months preceding the date of his disengagement or alleged termination, he is not entitled for re-employment even in case of his alleged illegal and arbitrary termination. Moreover, he was a temporary/casual/daily wage employee. His services can be terminated at any time without assigning any cause by the 1st Party-Management. He has no legal right to be retained in service for the extended period, if he was appointed for a certain period or when no time is specified. The 2nd Party-workman has not filed any letter of appointment or proof of having rendered service under the 1st Party-Management for a specified period against a regular post. The 1st Party-Management has further alleged that in time of exigencies only the 2nd Party-workman was employed. It means that with the end of exigencies his job also came to an end. In view of the matter the action of the management of State Bank of India, Main

Branch, Bhubaneswar in terminating the services of Sri Kanhu Charan Mallick with effect from the alleged date of his termination is fair, legal and justified. This issue is accordingly decided in the affirmative and against the 2nd Party-workman.

### ISSUE No.4

11. In view of the findings recorded above under Issues No.2 and 3, the 2nd Party-workman is not entitled to any relief whatsoever claimed.

12. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 8 अगस्त, 2012

**का.आ. 2778.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.सी.एस. एस.आर. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संभ्या-1, नई दिल्ली के पार्ट (आईडी संभ्या 56/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 8-8-2012 को प्राप्त हुआ था।

[सं. एल-42012/54/2000 आई आर (सी 11)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 8th August, 2012

**S.O. 2778.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2011) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ICSSR and their workmen, which was received by the Central Government on 8-8-2012.

[No. L-42012/54/2000-IR (C-II)]

B. M. PATAIK, Section Officer

### ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL NO. I, KARKARDOOMA COURTS  
COMPLEX, DELHI**

**I. D. No.56/2011**

Shri Prempal Singh Yadav,  
S/o Shri Jajhan Singh,  
R/o B-2/19, Sadat Pur,  
Delhi-110094

... Claimant

### Versus

The Director,  
ICSSR, PB No.10528,  
Aruna Asaf Ali Marg,  
New Delhi-110067

... Management

### AWARD

A daily wager, who was granted temporary status, approached Shri Hira Lal in Reprographic Unit, Indian Council of Social Science Research (in short the Council) for getting some documents photocopied, for his personal work. As Shri Hira Lal was busy in some official work, he asked that daily wager to wait for some time. Instead of waiting, the daily wager started shouting and abusing Shri Hira Lal in unparliamentary language. Shri M.S. Somanathan, Deputy Director, intervened. The daily wager pushed Shri Somanathan, made him to fall on floor and assaulted several blows on his chest. Shri Somanathan received injuries and started bleeding from his right hand. He made a written complaint to the Director (Planning) of the Council. Charge sheet dated 5-12-1995 was served on the said daily wager. A domestic enquiry was conducted and on 6-3-96 the daily wager was dismissed from services of the Council. He raised an industrial dispute before the Conciliation Officer. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-42012/54/2000-IR(C-II) New Delhi, dated 22-6-2001 with following terms.

“Whether the action of the management of Indian Council of Social Sciences Research in dismissing Shri Prem Pal Singh Yadav from services w.e.f. 6-3-1996 is legal and justified? If not, to what relief, he is entitled to?”

2. Claim statement was filed by the daily wager, namely, Shri Prem Pal Singh, pleading therein that he was serving the Council as a daily wager since 1987. He rendered almost 240 days continuous service in each year. He was charge sheeted on 5-12-95. Shri N.K. Nijhawan, the Inquiry Officer, submitted his report dated 24.01.96 to the Disciplinary Authority. His report was against facts, pleaded and proved by him. On consideration of that report the Director of the Council passed orders dated 6-3-96, dismissing him from services with immediate effect. He preferred an appeal on 18-4-96, which was rejected on 10-5-96. Another appeal was filed by him to the Minister on 21-11-96. He approached Conciliation Officer but the conciliation proceedings failed. He projects that report of the Enquiry Officer was an arbitrary one, as he failed to follow principles of natural justice. The dismissal order is also malafide, as the Disciplinary Authority proceeded with a biased mind. No opportunity of being heard was given to him by the Appellate Authority. According to him, he has been victimized. He claims that dismissal order may be declared as illegal and he may be reinstated in service of the Council with continuity and full back wages.

3. The Council demurred the claim, pleading that the claimant assaulted Shri M.S. Somanathan, when the latter intervened in an altercation between the claimant and Shri Hira Lal. He caused injuries on his person and as such Shri Somanathan started bleeding from his right hand. He made a complaint to the Director and a charge sheet was

served on the claimant. His reply was found to be unsatisfactory, hence a domestic enquiry was ordered. The Enquiry Officer gave full opportunity to the claimant to defend himself. The report of the Enquiry Officer was in consonance with the principle of natural justice. The Disciplinary Authority sent a copy of report to the claimant for his comments in the matter. After considering his representation, the Disciplinary Authority dismissed him from service considering gravity of the charges. His appeal was dismissed. He has no case which may justify indulgence in his favour.

4. In addition to the facts, referred above, the Council claims that it undertakes several kinds of programmes connected with co-ordination of research, extension services & training and dissemination of improved educational techniques and collection in the educational programmes. The Council also undertakes preparation and publication of books, materials, periodicals and other literature. The Council is not an industry within the meaning of clause(j) of Section 2 of Industrial Disputes Act, 1947 (in short the Act). The claimant is not a workman within the meaning of clause (s) of Section 2 of the Act. The dispute referred is not an industrial dispute. In view of these facts, this Tribunal has no jurisdiction to entertain the dispute.

5. When pleadings were considered for settlement of issues, authorised representative of the Council was confronted with the law laid by the Apex Court in Bengalore Water Supply & Sewerage Board (1978 I.ab. I. C. 467) wherein it was ruled that “research institute, albeit run without profit motive are industries”. In view of above law, on pleading of the parties, following issues were settled :

1. Whether the enquiry conducted against the workman was fair and proper? If so, its effect.
2. Whether the punishment awarded to the workman was disproportionate to his misconduct?
3. As per reference.

6. **Issues No.1** was treated as preliminary issue. On consideration of evidence adduced and hearing the authorised representatives of the parties the preliminary issue was answered in favour of the claimant and against the Council, vide order dated 6-6-2011.

7. To prove misconduct of the claimant, the Council has examined Shri Hameed Mohd., Shri Subodh Kumar, Shri Hira Lal, Shri Anupam Garg and Shri Banarsi Dass in the case. Shri Banarsi Dass was examined after adjudication of the preliminary issue, while other witnesses were examined prior to that event. The claimant has examined himself in the case, which testimony was recorded prior to adjudication of the preliminary issue. He opted not to adduce any evidence in rebuttal after adjudication of the preliminary issue.

8. Vide order No.Z-22019/6/2007-IR(C-II) dated 11-2-2008, the case was transferred to the Central Govt. Industrial Tribunal No.2, New Delhi for adjudication. It was

retransferred to this Tribunal, vide order No. Z-22019/6/2007-IR(C-II) New Delhi, dated 30-3-2011, for disposal.

9. Arguments were heard at the bar. Shri Saurabh Rastogi, authorized representative, advanced arguments on behalf of the claimant. Dr. K.D.Parsad, authorized representative, presented facts on behalf of the Council. Written arguments were filed by the parties. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

#### Issue No. 2 & 3

10. In order to establish misconduct of the claimant, the Council examined S/Shri Hameed Mohd., Subodh Kumar, Hira Lal, Anupam Garg and Banarsi Lal. Hence, it would be expedient to scan facts unfolded by these witnesses. Shri Hameed Mohd., swears in his affidavit Ex.MW1/A, tendered as evidence, that on 4-12-1995, at about 3 p.m. he was sitting on his seat in photocopier unit, where the claimant reached with a bunch of about 50 papers. He asked Shri Hira Lal to make photocopies of those documents urgently. Shri Hira Lal told him that he would do his job after finishing the work in his hand. The claimant asked him to do his work urgently and on priority basis. Shri Hira Lal told him that he would do his work after some time. At this, the claimant started abusing him. Shri M. S. Somanathan, Deputy Director, who was present in the unit asked the claimant not to shout and disturb Shri Hira Lal in his work. The claimant continued to shout. Shri Somanathan then went to the claimant and by placing his hand on his shoulder, asked him to leave. At that juncture, a paper got jammed, in the photocopier machine, which was being operated by Shri Jaipal Singh, unfolds the witness. He went to that machine. In the meanwhile, he heard a loud thud and saw Shri Somanathan lying on the floor. Claimant was sitting on his chest and was pushing him hard with his hands. In that process, Shri Somanathan got his hand injured and started bleeding. Shri Jaipal Singh and Shri Hira Lal rushed towards Shri Somanathan and physically removed the claimant from him. Thereafter, he alongwith others picked up Shri Somanathan. At that moment, he found the claimant holding a shoe and attempting to assault Shri Somanathan with it. Since Shri Jaipal Singh was holding the claimant physically from his back, hence he was prevented from assaulting Shri Somanathan. During the course of his cross examination, he projects that Shri Somanathan was bleeding from his left hand. He concedes that the claimant had filed writ petition before the High Court of Delhi for regularization of his services.

11. Shri Subodh Kumar details those very facts as unfolded by Shri Hameed Mohd. He presents that on 4-12-1995, at about 3.00 p.m., he had gone to the photocopier unit for getting some documents xeroxed. When he was waiting to get documents xeroxed, the claimant reached there. The claimant asked Shri Hira Lal to get his documents

photocopied on priority basis. When Shri Hira Lal told him that he would finish his work first, it led to an altercation between the claimant and Shri Hira Lal. Shri Somanathan instructed the claimant by gesture of his finger not to disturb. At that juncture, the claimant shouted at Shri Somanathan, who then walked to the claimant and tried to stop him from shouting. The claimant pushed Shri Somanathan, as a result of which he fell down on the floor. Shri Somanathan received injuries on his hand and stated bleeding. Persons present in the unit intervened and separated Shri Somanathan and the claimant. Shri Somanathan was lifted. At that Juncture, the claimant stood on a table and threatened to assault Shri Somanathan. He was prevented from doing so. During the course of his cross examination, he also projects that Shri Somanathan sustained injuries on his left hand.

12. Shri Hira Lal confirms to facts detailed by Shri Hameed Mohd. and Shri Subodh Kumar. He narrates that on 4-12-1995, at about 3.00 p.m., the claimant approached him with a bunch of 30-40 papers and asked him to photocopy those documents urgently. Since he was doing some urgent official photocopy work, he told the claimant that he would do it later on. Claimant insisted that his work should be done urgently and this led to an altercation between the two. Shri Somanathan asked the claimant not to disturb him in his work. At this juncture, the claimant got annoyed and started shouting at Shri Somanathan. He continued with his work at the photocopier machine with his back towards them, declares the witness. He heard a thud and found Shri Somanathan lying on the floor. Claimant was sitting on his chest. Shri Somanathan was bleeding from his hand. He, alongwith Shri Jaipal Singh and others, physically removed the claimant from Shri Somanathan. Still charged with anger, claimant removed his shoe and tried to assault Shri Somanathan with it. They prevented him from beating Shri Somanathan.

13. Shri Anupam Garg speaks in the same vein. He tells that on 4-12-1995, at about 3.00 p.m., Shri Prem Pal came to photocopier unit with a bunch of papers. He asked Shri Hira Lal to get those documents photocopied urgently. Shri Hira Lal told him to wait. At that juncture, claimant told in high pitch of voice that his documents should be photocopied urgently. He asked the claimant to wait for some time. But the claimant started shouting. At that juncture, Shri Somanathan told the claimant not to disturb. It enraged the claimant and he shouted at him also, Shri Somanathan pointedly asked the claimant not to shout. Claimant pushed and pinned him down to the ground. He started giving him blows. Shri Hira Lal and Shri Jaipal Singh intervened and physically removed the claimant and separated him from Shri Somanathan. Claimant was still in an agitated mood and tried to assault Shri Somanathan with his shoe. During the course of cross examination, Shri Garg unfolds that Shri Somanathan has expired.

14. Shri Banarsi Lal projects that on 4-12-1995, Shri M.S. Somanathan had submitted a written complaint to the Director(Planning) relating to physical assault and injuries caused to him by the claimant. Copy of that complaint has been proved by him as Ex. MW5/1. During the course of cross examination, he details that Shri Somanathan was taken to a doctor in Bengali Market for his treatment. He concedes that the claimant was President of Group "C" & "D" Employees Union, which was unrecognized.

15. Though opportunity was given to the claimant to adduce evidence in rebuttal, yet he opted not to put forward any other evidence, except affidavit dated 31-12-2002, tendered by him as evidence. In his affidavit referred above, he swears that on 4-12-1995, he had gone to get some documents photocopied on payment basis. Shri M.S. Somanathan had misbehaved with at that time. Shri M.S. Somanathan had abused in filthy language and beaten him. He lodged a complaint with Police Station Tilak Marg on that very day. He denies that he had made any assault on Shri Somanathan.

16. The claimant further projects that he had filed writ petition before High Court of Delhi for regularization of his services, besides others. The said writ petition was filed by him, being president of Group C & D employees Association. He was being victimized by the Council, owing to that fact. He had also made a complaint to the Minister of Education, Government of India on 18-5-1994, relating to irregularities committed in the Council. No action was taken on that complaint. He also made many complaints against the Council when he was dealt with in malafide manner.

17. When facts unfolded by the witnesses examined by the Council as well as those detailed by the claimant are appreciated, it came to light that the claimant concedes that on 4-12-1995 he had gone to the Reprographic Unit for getting a bunch of documents photocopied. S/Shri Hameed Mohd., Subodh Kumar, Hira Lal and Shri Anupam Garg detail in one voice that the claimant insisted for getting his documents photocopied on urgent basis. Probably he was laced with the ego of being President of Group "C" & "D" Employees Union and attempted to seek recognition as such from above witnesses, when he insisted that his work be done on priority basis. Shri Hira Lal told him to wait, since he was busy with photocopy work. It enraged the claimant, when Shri Hira Lal shown scant recognition to the claimant. He started shouting at the pitch of his voice. Shri M. S. Somanathan, who was present there in the unit, asked the claimant to behave. When the claimant continued with his indecent behaviour, Shri M. S. Somanathan got up from his seat, went to the claimant asked him to leave, by placing his hand on his shoulder. This act of Shri Somanathan seems to have been perceived by the claimant as complete disregard to his position. He lost his temper completely. He pushed Shri Somanathan, made him to fall

on the ground and started hitting him with blows. Shri Somanathan sustained injuries on his hand and started bleeding. Shri Jaipal Singh and Shri Hira Lal rushed and physically removed the claimant from Shri Somanathan. Shri Somanathan was lifted by others. Circumstances portrait that the claimant felt unsatisfied, since he was separated and prevented by the witnesses from causing further injuries to Shri Somanathan. To soothe his feelings, the claimant removed one of his shoes and tried to assault Shri Somanathan with it. Since Shri Jaipal Singh was holding him, he could not beat Shri Somanathan with his shoe.

18. The above facts stand substantiated by the complaint of Shri Somanathan, copy of which is Ex. MW 5/1. The claimant nowhere disputes that this complaint was made by Shri Somanathan to the Director (Planning) of the Council on that day. Since, Shri Somanathan is no more in this world, he could not be produced to prove copy of that complaint. However, Shri Banarsi Lal had proved it. The claimant had not tried to dispel that fact. Perusal of Ex. MW5/1 gives confirmation to facts unfolded by the witnesses, referred above. It is evident out of Ex. MW5/1 that the claimant abused and shouted at Shri Hira Lal in unparliamentary language. When Shri Somanathan intervened, he pushed him down on the floor and gave several blows on his chest. Shri Somanathan received injuries on his right hand and started bleeding.

19. Much hue and cry has been made that facts unfolded by S/Shri Hameed Mohd., Subodh Kumar and Anupam Garg cannot be relied since they deposed contrary to facts detailed in Ex. MW5/1. It has been agitated that in complaint Ex. MW5/1, it is mentioned that Shri Somanathan sustained injuries in his right hand, while above witnesses claim that he received injuries on his left hand. It was argued on behalf of the claimant that the witnesses, referred above, were not present at the spot and procured by the Council with a view to fabricate facts. Discrepancy on above issue is there in facts unfolded by S/Shri Hameed Mohd., Subodh Kumar and Anupam Garg. All of them speak that Shri Somanathan sustained injuries in his left hand. Whether this discrepancy would make them unworthy of credit ? As detailed above, presence of Shri Hira Lal at photocopier machine is not a matter of dispute. Claimant himself presents that he had gone to Shri Hira Lal to get documents photocopied on payment basis. It is also not disputed that Shri Hameed Mohd. and Shri Garg were also present there at that time. The claimant had tried to establish that it was Shri Somanathan who had misbehaved and beaten him. Therefore, it is crystal clear that the claimant neither dispute his presence at the spot nor that of the witnesses and the victim. Contra to the facts deposed by the witnesses, he presents a different story claiming that it was Shri Somanathan who assaulted him. When the aforesaid witnesses faced rigors of cross examination, the claimant could not dispel facts deposed by them to the effect that Shri Somanathan sustained injuries in the assault. From

these aspects, it emerges that when the witnesses came to depose facts minor discrepancy occurred, since they entered the witness box after a long gap of time. Incident relates to 4-12-1995. Shri Hameed Mohd. entered the witness box on 1-2-2005, Shri Subodh Kumar also entered the witness box on that very day and Shri Anupam Garg testified facts on 10-2-2011. Thus, it is clear that due to long gap of time memory of these witness faded a little bit and they deposed that Shri Somanathan sustained injuries in his left hand.

20. Discrepancies or inconsistencies in evidence is a short fall from which no case is free, when ocular facts are testified by the witnesses. While appreciating evidence it is to be seen whether those discrepancies go to the root of the case or pertain to insignificant aspect thereof. In the former case, a party may be justified in seeking advantage of the incongruities in the evidence, however in the later case no benefit may be available to it. Discrepancies are of two types, viz. normal or material. Normal discrepancies do arise due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock or horror at the time of occurrence and the like. Material discrepancies are those which are not normal and not expected of a normal person. The evidence of eyewitnesses are the eyes and ears of justice and should not be disbelieved on mere conjunctures, surmises, improbabilities, deficiencies, drawbacks and infirmities. But when the discrepancies, contradictions, inconsistencies and falsehood are so glaring as to destroy the confidence of the Court or Tribunal in the witness then that evidence should not be accepted.

21. Above discrepancy is gazed in the light of standards of appreciation of evidence, referred above. It is apparent that the discrepancy seems to have occurred due to normal errors of memory on account of long gap of time. The discrepancy is minor and does not dislodge the story of assault on Shri Somanathan. It does not go to the substratum of the case. On the other hand, presence of the witnesses at the spot is a foregone conclusion. When attempt is made to identify the main strands of truth, it emerged that this discrepancy does not affect the credibility of above witnesses. Discrepancy, being normal, is discarded.

22. When witnesses, referred above, were cross examined, it was not suggested to them that they were having feelings of ill-will against the claimant and motivated to frame him. No case is projected by the claimant that there were series of animosity which led the aforesaid witnesses to nurture enmity against him. He could not project that the witnesses were determined to implicate him. It is not his case that the aforesaid witnesses were bribed or given offer of some temporal gain to testify facts against him. No evidence worth-name was brought over record to suggest that these witnesses were not men of

veracity. When their depositions were closely scrutinized, it came to light that the aforesaid witnesses have given a consistent story. Probability of that story had not been questioned at all. Even otherwise, complaint Ex. MW5/1 remained an unassailed document. Out of this document, entire story of mis-behaviour and assault on Shri Somanathan by the claimant has surfaced over record. Taking into account all these facts, I am constrained to conclude that the Council had been able to establish that on 4-12-1995 at 3.00 p.m. at Reprographic Unit, in the premises of the Council, the claimant misbehaved with Shri M.S. Somanathan, pushed him and made him to fall and assaulted him with fist blows. As a result of the assault, Shri Somanathan bleed from his right hand. When claimant was separated and Shri Somanathan was made to stand, at that moment the claimant tried to assault him with his shoe. Consequently, I have no hesitation in concluding that the Council has been able to establish misconduct of the claimant beyond doubt.

23. Punishment of dismissal was awarded to the claimant. Are there any justification for punishment of dismissal? Right of an employer to inflict punishment of discharge or dismissal is not unfettered. The punishment imposed must be commensurate with gravity of the misconduct, proved against the delinquent workman. Prior to enactment of Section 11-A of the Act, it was not open to the industrial adjudicator to vary the order of punishment on finding that the order of dismissal was too severe and was not commensurate with the act of misconduct. In other words, the industrial adjudicator could not interfere with the punishment as it was not required to consider propriety or adequacy of punishment or whether it was excessive or too severe. Apex Court, in this connection, had, however, laid down in Bengal Bhattee Coal Company (1963(1) LLJ 291) that where order of punishment was shockingly disproportionate with the act of the misconduct which no reasonable employer would impose in like circumstances, that itself would lead to the inference of victimization or unfair labour practice which would vitiate order of dismissal or discharge. But by enacting the provisions of Section 11-A of the Act, the Legislature has transferred the discretion of the employer, in imposing punishment, to the industrial adjudicator. It is now the satisfaction of the industrial adjudicator to finally decide the quantum of punishment for proved acts of misconduct, in cases of discharge or dismissal. If the Tribunal is satisfied that the order of discharge or dismissal is not justified in any circumstances on the facts of a case, it has the power not only to set aside order of punishment and direct reinstatement with back wages, but it has also the power to impose certain conditions as it may deem fit and also to give relief to the workman, including award of lesser punishment in lieu of discharge or dismissal.

24. It is established law that imposing punishment for a proved act of misconduct is a matter for the punishing

authority to decide and normally it should not be interfered with by the Industrial Tribunals. The Tribunal is not required to consider the propriety or adequacy of punishment. But where the punishment is shockingly disproportionate, regard being had to the particular conduct and past record, or is such as no reasonable employer would ever impose in like circumstance, the Tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice. Law to this effect was laid by the Apex Court in Hind Construction and Engineering Company (1965 (1) LLJ 462). Likewise in Management of the Federation of Indian Chambers of Commerce and Industry (1971 (II) LLJ 630) the, Apex Court ruled that the employer made a mountain out of a mole hill and had blown a trivial matter into one involving loss of prestige and reputation and as such punishment of dismissal was held to be unwarranted. In Ram Kishan (1996 (1) LLJ 982) the delinquent employee was dismissed from service for using abusive language against a superior officer. On the facts and in the circumstances of the case, the Apex Court held that the punishment of dismissal was harsh and disproportionate to the gravity of the charge imputed to the delinquent. It was ruled therein, "when abusive language is used by anybody against a superior, it must be understood in the environment in which that person is situated and the circumstances surrounding the event that led to the use of abusive language. No straight-jacket formula could be evolved in adjudicating whether the abusive language in the given circumstances would warrant dismissal from service. Each case has to be considered on its own facts."

25. In B.M. Patil (1996 (11) LLJ 536), Justice Mohan Kumar of Karnataka High court observed that in exercise of discretion, the disciplinary authority should not act like a robot and justice should be moulded with humanism and understanding. One has to assess each case on its own merit and each set of fact should be decided with reference to the evidence regarding the allegation, which should be basis of the decision. The past conduct of the worker may be a ground for assuming that he might have a propensity to commit the misconduct and to assess the quantum of punishment to be imposed. In that case a conductor of the bus was dismissed from service for causing revenue loss of 50p to the employer by irregular sale of tickets. It was held that the punishment was too harsh and disproportionate to the act of misconduct.

26. After insertion of Section 11-A of the Act, the jurisdiction to interfere with the punishment is there with the Tribunal, who has to see whether punishment imposed by the employer is commensurate with the gravity of the act of misconduct. If it comes to the conclusion that the misconduct is proved, it may still hold that the punishment is not justified because misconduct alleged and proved is such as it does not warrant punishment of discharge or dismissal and where necessary, set aside the order of discharge or dismissal and direct reinstatement with or

without any terms or conditions as it thinks fit or give any other relief, including the award of lesser punishment, in lieu of discharge or dismissal, as the circumstance of the case may warrant. Reference can be made to a precedent in Sanatak Singh (1984 Lab. I.C. 817). The discretion to award punishment lesser than the punishment of discharge or dismissal has to be judiciously exercised and the Tribunal can interfere only when it is satisfied that the punishment imposed by the management is highly disproportionate to the degree of the guilt of the workman. Reference can be made to the precedent in Kachraji Motiji Parmar (1994 (II) LLJ 332). Thus it is evident that the Tribunal has no jurisdiction and power of substituting its own measure of punishment in place of the managerial wisdom, once it is satisfied that the order of discharge or dismissal is not justified. On facts and in the circumstances of a case, section 11A of the Act specifically gives two folds powers to the Industrial Tribunal, first is virtually the power of appeal against findings of fact made by the Enquiry Officer in his report with regard to the adequacy of the evidence and the conclusion on facts and secondly of foremost importance, is the power of reappraisal of quantum of punishment.

27. Power to set aside order of discharge or dismissal and grant relief of reinstatement or lesser punishment is not untrammelled power. This power has to be exercised only when Tribunal is satisfied that the order of discharge or dismissal was not justified. This satisfaction of the Tribunal is objective satisfaction and not subjective one. It involves application of the mind by the Tribunal to various circumstances like nature of delinquency committed by the workman, his past conduct, impact of delinquency on employer's business, besides length of service rendered by him. Furthermore, the Tribunal has to consider whether the decision taken by the employer is just or not. Only after taking into consideration these aspects, the Tribunal can upset the punishment imposed by the employer. The quantum of punishment cannot be interfered with without recording specific findings on points referred above. No indulgence is to be granted to a person, who is guilty of grave misconduct like cheating, fraud, misappropriation of employers fund, theft of public property etc. A reference cannot be made to the precedent in Bhagirath Mal Rainwa (1995 (1) LLJ 960).

28. Whether punishment awarded to the claimant does not commensurate with the misconduct? For an answer it is to be considered that the claimant abused Shri M.S. Somanathan, assaulted him and caused injuries on this person. Riotous or disorderly or indecent behaviour as such, is a misconduct which may impair reputation of the concern and create resentment and unrest amongst the workers. Such acts, even if committed outside the premises of the concern by an employee who is off duty would ensue its consequences within the workplace of the employer. Such acts tend to throwaway discipline in the concern. Such behaviour is also termed as subversive of discipline. Such misconduct is to be dealt with a stern hand.

29. As projected above, the claimant shouted at Shri Hira Lal, when the latter asked him to wait for some time. Intervention by Shri M.S. Somanathan enraged the claimant. He assaulted Shri Somanathan, made him to fall and gave him blows. In the process of that assault, Shri Somanathan sustained injuries in his right hand. When others intervene and separated the claimant, even at that juncture, claimant took out one of his shoes and attempted to assault Shri Somanathan with it. Thus, it is evident that misconduct of the claimant is an alarming one. For such misconduct, punishment of dismissal from service cannot be termed as shockingly disproportionate. Consequently, I am of the view that punishment awarded to the claimant does not call for any interference.

30. Whether the punishment would relate back to the date, when it was awarded to the claimant? For an answer, it is expedient to consider the precedents handed down by the Apex Court. In Ranipur Colliery [(1959) Supp. 2 SCR 719] the employer conducted a domestic enquiry though defective and passed an order of dismissal and moved the Tribunal for approval of that order. It was ruled therein that if the enquiry is not defective, the Tribunal has only to see whether there was a *prima facie* case for dismissal and whether the employer had come to the *bonafide* conclusion that the employee was guilty of misconduct. Thereafter on coming to that conclusion that the employer had *bonafide* come to the conclusion that the employee was guilty, that is, there was no unfair labour practice and no victimization, the Tribunal would grant the approval which would relate back to the date from which the employer had ordered the dismissal. If the enquiry is defective for any reason, the Tribunal would also have to consider for itself on the evidence adduced before it whether the dismissal was justified. However on coming to the conclusion on its own appraisal of evidence adduced before it that the dismissal was justified its approval of the order of dismissal made by the employer on defective enquiry would still relate back to the date when order was made.

31. In Phulbari Tea Estate [(1960 (I) S.C.R. 32] the domestic enquiry held by the employer culminating in the order of dismissal was found to be invalid, being in gross violation of the rules of natural justice. Even before the Tribunal, the employer did not lead proper evidence to justify the order of dismissal and contended itself by merely producing the statement of certain witnesses recorded during the domestic enquiry and the workman had no opportunity to cross-examine the witnesses before the Tribunal. In the absence of any evidence before it, justifying the dismissal, the Tribunal set aside the order of dismissal and granted compensation in lieu of reinstatement, which order was upheld by the Apex Court. In that case question of relating back of the order of dismissal did not arise.

32. In P.H. Kalyani [(1963 (I) LLJ 673] the employer dismissed the workman after holding a domestic enquiry

into the charges. Since some dispute was pending before the Industrial Tribunal, the employer applied for "approval" of action of dismissal in compliance with the proviso to section 33(2)(b) of the Act. The workman made an application under section 33-A of the Act. Apart from relying on validity of domestic enquiry, the employer adduced all the evidence before the Tribunal in support of its action. On basis of evidence before it, the Tribunal came to the conclusion that the facts of misconduct committed by the workman were of serious nature involving danger to human life and therefore dismissed the application under section 33-A and accorded "approval" to the action of dismissal taken by the employer. In this situation the Apex Court held that if the enquiry is not defective and the action of the employer is *bonafide*, the Tribunal will grant the "approval" and the dismissal would "relate back to the date from which the employer had ordered dismissal". If the enquiry is invalid for any reason, the Tribunal will have to consider for itself on the evidence adduced before it, whether the dismissal was justified. If it comes to the conclusion on its own appraisal of such evidence that the dismissal was justified, the dismissal would "still relate back to the date when the order was made". Sasa Musa Sugar Works case [1959 (2) LLJ. 388] was distinguished saying that observations made therein "apply only to a case where the employer had neither dismissed the employee nor had come to the conclusion that a case for dismissal had been made. In that case, the dismissal of the employee takes effect from the date of the award and so until then the relation of employer and employee will continue in law and in fact".

33. D.C.Roy [(1976) Lab. I.C. 1142] is the illustration where domestic enquiry held by the employer was found to be invalid being violative of principles of natural justice and the employer had justified the order of dismissal by leading evidence before the Labour Court, on appraisal of which the Labour Court found the order of dismissal justified. In appeal, the Apex Court upheld the award with the observation that "the ratio of Kalyani's case (supra) would therefore, govern the case and the judgment of the Labour Court must relate back to the date on which the order of dismissal was passed".

34. In Gujarat Steel Tubes Ltd. [(1980 (I) LLJ 137] inverted image of the D.C. Roy's case was presented by a majority of three judge bench wherein it was held that "where no enquiry has preceded punitive discharge, and the Tribunal for the first time upholds the punishment, this court in D.C. Roy vs. Presiding Officer (supra) has taken the view that full wages be paid until the date of the award. There cannot be any relation back of the date of dismissal when the management passed the void order". Though the court ruled that law laid in D.C.Roy is correct yet it followed *obiter* instead of the decision. Observations of the Apex Court in above decision, bearing on the relate back rule, were faulted in R.Thiruvirkolam [(1997 (I) SCC 9]

on the ground that they “are not in the line with the decision in Kalyani which was binding or with D.C. Roy to which learned Judge Krishna Iyer J. was a party. It also does not match with the juristic principle discussed in Wade”. The view taken in R.Thiruvirkolam (supra) was affirmed in Punjab Dairy Development Corporation Ltd. [1997 (2) LLJ 1041].

35. In view of the catena of decisions, detailed above, it is clear that an employer can justify its action by leading evidence before the Tribunal. This equally applies to cases of total absence of enquiry and defective enquiry. A case of defective enquiry stands on the same footing as of no enquiry. If no evidence is led or evidence adduced does not justify the dismissal by the employer, the Tribunal can order reinstatement or payment of compensation as it may think fit. But if it finds on the evidence adduced before it that the dismissal is justified, the doctrine of relate back is pressed into service to bridge the time gap between the rupture of the relationship of employer and employee and the finding of the Tribunal.

36. If the workman is to be paid wages upto the date of the award of the Tribunal, the Parliament has to enact so, declares the Delhi High Court in Ranjit Singh Tomar (ILR 1983 Delhi 802). Obviously the Act does not make any provision for the situation. Precedents in Ghanshyam Das Shrivastava [1973 (1) SCC 656], Capt. M.Paul Anthony [1999 (3) SCC 679] and South Bengal State Transport Corporation [2006 (2) SCC 584] nowhere deal with the controversy, hence are not discussed.

37. Applying the law referred above, it is ordered that the punishment of dismissal from service of the Council shall relate back to the date when it was awarded to the claimant on 06-03-1996. He is not entitled to any relief. His claim is brushed aside. An award is, accordingly, passed against the claimant and in favour of the council. It be sent to the appropriate Government for publication.

Dated 16-07-2012

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 8 अगस्त, 2012

का.आ. 2779.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, संख्या-1, नई दिल्ली के पंचाट (आईडी संख्या 153/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 8-8-2012 को प्राप्त हुआ था।

[सं. एल-42012/104/2001-आई आर (सीएम-II)]

बी. एम. पट्टनायक, अनुभाग अधिकारी

New Delhi, the 8th August, 2012

S.O. 2779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 153/

2011) of the Central Government Industrial Tribunal-cum-Labour Court, No.-1, New Delhi as shown in the Annexure in the Industrial Dispute between the management of CPWD, and their workmen, received by the Central Government on 8-8-2012.

[No. L-42012/104/2001-IR (CM-II)]

B. M. PATNAIK, Section Officer

#### ANNEXURE

#### BEFORE DR. R.K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 1, DELHI

##### I. D. No. 153/2011

The General Secretary,  
CPWD Workers Union,  
M/86-88, Aliganj,  
New Delhi-110003.

... Union

##### Versus

The Director General of Works,  
C.P.W.D.

Nirman Bhawan,  
New Delhi-110011.

... Management

##### AWARD

Hospital Patient Care Allowance/Patient Care Allowance is being paid to group “C” and “D” (non-ministerial) employees working in; hospitals, dispensaries and organizations which come under the control of Ministry of Health & Family Welfare, Government of India, New Delhi. In such hospitals, dispensaries and organizations employees (i) under administrative control of Ministry of Health, and (ii) under administrative control of Central Public Works Department, Ministry of Urban Development, Government of India, New Delhi, do work. Employees under control and supervision of Ministry of Health, Government of India, New Delhi, who work on following categories of posts, are being paid Hospital Patient Care Allowance/Patient Care Allowance:- (1) Medical Record clerk, (2) Lower Division Clerk, (3) Assistant Superintendent, (4) Assistant Cashier, (5) Assistant Steward, (6) Caretaker (Hospital), (7) Book Binder, (8) Store Keeper Grade-II, (9) Store Keeper Grade-III, (10) Store Keeper, (11) Upper Division Clerk, (12) Library Translator, (13) Library Attendant, (14) Accountant, (15) Peon, (16) Daftary, (17) Watchman or Chowkidar, (18) Hostel Attendant, (19) Gardner or Mali, (20) Plumber-cum-Medical Fitter, (21) Senior Medical Attendant, (22) Cobbler, (23) Driver, (24) Fitter, (25) Librarian, (26) Field Investigator, (27) Medical Supervisor, (28) Draughtsman, and (29) Health Visitor.

2. Employees, under administrative control of CPWD, Ministry of Urban Development, Government of India, New Delhi, who work on following categories of posts, are not paid Hospital Patient Care Allowance/Patient Care Allowance:- (a) Electrician, (b) Librarian, (c) Operator Pumps, (d) Operator D.G. Sets, (e) Lift Operator, (f) Khalasi,

(g) Plumber, (h) Carpenter, (i) Mason, (j) Beldar, (k) Mali, (l) Air Conditioning Mechanic, and (m) Mechanic (who was earlier called Fitter).

3. Employees under administrative control of CPWD, Ministry of Urban Development, Government of India, New Delhi, raised a demand for payment of Hospital Patient Care Allowance/Patient Care Allowance to them, which demand was not conceded to. CPWD Workers Union (hereinafter referred to as the Union) raised an industrial dispute before the Conciliation Officer in that regard. Since Conciliation proceedings ended into a failure, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-42012/104/2001-IR (CM-II), New Delhi, dated 20-12-2001 with following terms :—

**“Whether the action of the Management of C.P.W.D., Nirman Bhawan, New Delhi-110001 in denying payment of Hospital Patient Care Allowance and Patient Care Allowance to the CPWD workmen who are employed in Government Hospitals, Institutions and Dispensaries is legal and justified? If not to what relief they are entitled to?”**

4. Claim statement was filed by the Union pleading therein that in Government hospitals, institutions and dispensaries two sets of employees are working viz., (i) under administrative control of Ministry of Health, Government of India, New Delhi, and (ii) under administrative control of Central Public Works Department, Ministry of Urban Development, Government of India, New Delhi. The Government institutions where employees of second category are deputed to work includes CGHS dispensaries, besides following institutions :—

1. Jawahar Lal Institute of Post Graduate Medical Education and Research (JIPMER), Pondicherry,
2. Central Leprosy Training and Research Institute (CLTRI), Chengalpattu, Tamilnadu,
3. Regional Leprosy Training and Research Institute (RLTRI), Aska, Orissa,
4. Regional Leprosy Training and Research Institute (RLTRI), Raipur, Chhattisgarh,
5. Regional Leprosy Training and Research Institute (RLTRI), Goripur, West Bengal,
6. C.C.H.S. Hospital, Rajpur Road, New Delhi.
7. C.G.H.S. Maternity and Gynae Hospital, R.K. Puram, New Delhi.
8. Central Institute of Psychiatry, Ranchi, Jharkhand.
9. All India Institute of Physical Medicine and Rehabilitation (AIIPMR), Mumbai, Maharashtra.
5. The Union projects that employees of group "C" and "D" categories employed in Government hospitals and institutions, who are under administrative control of

Ministry of Health, including the nursing staff get Hospital Patient Care Allowance irrespective of their nature of duties and the fact: (1) whether they are required to come into direct contact with the patients or not, (2) whether their services are called for often or not, or (3) whether they are required to go to all types of wards or not. The nursing staff is paid nursing allowance. The Union projects that employees of 29 categories, referred above, get Hospital Patient Care Allowance/Patient Care Allowance, which was fixed at Rs. 80 per month for certain categories and Rs. 70 per month for other categories, as on 1-4-1987. The said allowance was raised to Rs. 160 and Rs. 150 per month respectively w.e.f. 1-8-1997. It was further revised and raised to Rs. 700 and Rs. 695 per month w.e.f. 29-12-1998. It has been projected that employees of aforesaid categories posted in CGHS dispensaries, are being paid Patient Care Allowance at Rs. 70 per month w.e.f. 1-4-1987, at Rs. 140 per month w.e.f. 1-8-1997 which was increased to Rs. 600 per month w.e.f. 29-12-1998.

6. The purpose of payment of Hospital Patient Care Allowance/Patient Care Allowance is to motivate the employees to perform their duties very efficiently so that in the end result patients receive better services. The Union projects that posts of Mali, Plumber and Mechanic are common in above two categories of employees, but those who are under control of Ministry of Health, Government of India, New Delhi, get Hospital Patient Care Allowance/Patient Care Allowance. Denial of Hospital Patient Care Allowance/Patient Care Allowance to the employees who are under control of Ministry of Urban Development, Government of India, New Delhi, is discrimination without any justification. It has been claimed that Director General (Works), CPWD, may be commanded to pay Hospital Patient Care Allowance/Patient Care Allowance to the employees of the aforesaid categories who are posted in hospitals, institutions and CGHS dispensaries, on the same rate and from the same date as is being paid by the Ministry of Health, Government of India, New Delhi, to its employees who work in hospital, institutions and dispensaries.

7. Claim was demurred by the Central Public Works Department (herein after referred to as the management) pleading that the Union filed O.A. No. 1646/98 before Central Administrative Tribunal (in short the CAT) which was heard and dismissed vide order dated 27-2-2007. A review application was filed by the Union, which application was dismissed by the CAT, vide order dated 18-09-2003. In view of these facts the present claim is barred by principles of res judicata.

8. The management projects that Hospital Patient Care Allowance is admissible to Group 'C' and 'D' (non-ministerial) employees excluding nursing personnel, at the rate of Rs. 700 and Rs. 695 per month respectively who work in general hospitals (with 30 beds or more) and in super specialty hospitals (with 10 beds or more) subject to the condition that no night waitage allowance and risk

allowance, if sanctioned by the Central Government, would be admissible to them. Patient Care Allowance is admissible to group 'C' and 'D' (non ministerial) employees excluding nursing personnel at the rate of Rs. 690 per month who work in health care delivery institutions/establishment (other than hospitals) having less than 30 beds subject to the condition that no night waitage allowance and risk allowance, if sanctioned by the Central Government, would be admissible to them.

9. Hospital Patient Care Allowance/Patient Care Allowance would be admissible to group 'C' and 'D' (non ministerial) employees whose regular duties involve continuous and routine contact with patients infected with communicable disease or those who have to routinely handle, as their primary duty, infected materials and equipments which can spread infection. The management projects that the claimants, represented by the Union, who work in various hospitals, institutions and dispensaries, are covered by different recruitment rules than the recruitment rules applicable to group 'C' and 'D' employees of Ministry of Health, Government of India, New Delhi, deployed in various hospitals, institutions and dispensaries. The management asserts that O.M. No. 20015/8/88-ME (PG) dated 24-11-1989 has been superseded by order dated 4-2-2004. Claimants represented by the Union, neither come in direct contact with infected patients as per their regular duties nor do they handle infected materials on routine basis. It has been projected that the claimants, represented by the Union, are not entitled for Hospital Patient Care Allowance/Patient Care Allowance. Their claim, being devoid of merits, may be dismissed, pleads the management.

10. In rejoinder the union projects that ministerial employees as well as large number of group 'D' employees working in hospital, institutions and dispensaries, under the control of Ministry of Health, Government of India, were not eligible to draw Hospital Patient Care Allowance/Patient Care Allowance. By way of adoption of a novel plan recruitment rules were modified and ministerial posts were classified as non ministerial posts, with a view to make them eligible to draw Hospital Patient Care Allowance. Government, by way of notification dated 23-11-1989, amended Safdarjung Hospital Class-III Posts Recruitment Rules and re-classified ten categories of ministerial posts as non ministerial without any change in their duties or service conditions. In the same manner, Safdarjung Hospital Group 'D' posts were classified as non ministerial posts, without any change in their duties or service conditions. The Government also made similar amendments in recruitment rules of staff working in other hospital, institutes and dispensaries. For example ministerial posts were re-classified as non ministerial in JIPMER, Pondicherry, vide O.M. No. Z-28015/8/88/ME (PG) dated 24-11-1989. In CLTRI Chengalpattu, 36 categories of ministerial posts and five categories of employees viz. Gardener, Watchman and

Hostel Attendant were re-classified as non ministerial by the Government.

11. The Union further projects that it is not correct to assert that the employees, under the control of Ministry of Urban Development, are not required to come in direct contact with the patients. Some employees of the categories of Pump Operator, Generator Operator, Electrician, Wireman, Plumber, Sewermen are on roaster duties round the clock while some of the employees are on general duty only. In the same manner, employees under the Ministry of Health, some are on roaster duty and some perform general duties. Though the employees under the control of Ministry of Urban Development are also susceptible to infection but the Government is determined to continue with the discrimination. O.M.No.Z-28015/24/2001-II dated 4-2-2004 projects that the Government wants to perpetuate discrimination. It has been projected that the guidelines, referred above, are blatantly discriminatory and this Tribunal may remove the discrimination.

12. Through affidavit of Shri N. N. Manna, the General Secretary of the Union, was tendered as evidence, yet the Union opted not to produce him for according an opportunity to the management to purify his testimony an ordeal of cross-examination. When the management was not given an opportunity to test veracity of facts unfolded by Shri Manna in his affidavit, it cannot be read as evidence.

13. The management opted not to adduce any evidence in the matter.

14. Written arguments were filed on behalf of the Union as well as on behalf of the management. Parties opted not to advance oral arguments. I have perused the record carefully. My findings on issues involved in the controversy are as follows :—

15. As emerged out of the record, the Union asserts that employees working in Government hospitals, institutions and dispensaries who are under the administrative control of Ministry of Urban Development, Government of India, are being discriminated in the matter of payment of Hospital Patient Care Allowance/Patient Care Allowance. For an answer to this proposition, it is expedient to know as to what duties those employees do perform. Since there is a vacuum of evidence, hence this Tribunal has to fall back on "CPWD Maintenance Manual" to ascertain duties of the employee represented by the Union. It is a matter of common knowledge that building maintenance is the work undertaken to keep, restore or improve every facility that is every part of a building, its services and to sustain the utility and value of the facility. Objectives of maintenance are:

- (1) To preserve machinery, building and services in good operating condition,
- (2) To restore it back to its original standards, and
- (3) To improve the facilities.

16. Besides above works, Maintenance Wing of the management also undertakes: (a) additions and alteration work in Government buildings, (b) supply and maintenance of furniture and furnishing articles for VVIPs. To execute these jobs, day to day repairs, annual repairs, special repairs and preventive maintenance is carried out besides additions and alterations in a building, to suit special requirements of occupants for functional efficiency. Maintenance Wing undertakes the above work through directly employed labour or by way of award of contracts. As projected by the Union, employees posted in Government hospitals, dispensaries and institutions carry out maintenance work to keep, restore and improve facility of those buildings and to sustain utility and value of the facilities in the building.

17. Day to day repairs is carried out by the management in all the buildings under its maintenance. Works which are to be attended to on day to day basis, such as removal of chokage of drainage pipes, manholes, restoration of water supply, replacement of blown fuses, repairs to faulty switches, watering of plants, lawn mowing, hedge cutting, sweeping of leaf falls etc. are attended under day to day service facilities. The purpose of these facilities is to ensure satisfactory and continuous functioning of various services in the building. The works of periodical nature, like, white washing, colour washing, distemper, painting etc. are called annual repair works. Periodicity of applying white washing and colour washing of buildings has been laid down by the Government.

18. In addition, works such as patch repair to plaster, minor repairs to various items of work, replacement of glass panes, replacement of wiring damaged due to accident, replacement of switches, sockets tiles, gap filling of hedges/ perennial beds, replacement/replanting of trees, shrubs, painting of tree guards, planting of annual beds and trimming/pruning of plants etc., are also carried out. Such works can be carried out in a particular period of financial year, depending upon the exigency.

19. As the building ages, there is deterioration to the various parts of the building and services. Major repairs and replacement of elements become inevitable. It becomes necessary to prevent the structure from deterioration and undue wear and tear as well as to restore it back to its original conditions to the extent possible. Following types of works in general are undertaken under special repairs: (i) white washing, colour washing, distempering etc., after completely scrapping the existing finish and preparing the surface afresh, (ii) painting after removing the existing old paint, (iii) provision of water proofing treatment to the roof, (iv) repairs of internal roads and pavements, (v) repairs/ replacement of flooring, skirting, dado and plaster, (vi) replacement of doors, window frames and shutters, (vii) replacement of water supply and sanitary installation like water tanks, WC cistern, wash basins, kitchen sinks, pipes etc., (viii) re-grassing of lawns/grass plots, (ix) renovation

of lawn, (x) replanting of hedges, (xi) completely uprooting and removing hedges/shrubbery, (xii) replanting of rose beds, perennial beds, canna beds, and (xiii) shifting of any garden feature from one site to another within building.

20. Additions/alterations are carried out in buildings to suit the special requirements of occupying department for functional efficiency, after ascertaining the technical feasibility. Preventive maintenance is carried out to avoid the breakdown in case of machinery or occurrence of maintenance problems in buildings and services. Precautionary measures are to be taken for various items of the buildings/services, such as temporary roofings, door/ window glazing, checking buildings against seepage, checking of external areas, checking of sewers and sewage installations, checking of electrical installations, checking of air-conditioning installations. Horticulture maintenance is also carried out by the management.

21. All buildings/structures are required to be inspected once a year by the Assistant Engineer in-charge to ensure that the building/structure is not unsafe for use. In case of electrical and other installations, the Assistant Engineer has to inspect it and record a certificate to that effect. When any deficiency found in the structure/ installation necessary report is made to higher authorities to take immediate steps. The Divisional Officers are under an obligation to inspect important buildings/structures once a year. He would bring to the notice of his Superintending Engineer, cases where he has reasons to doubt the structural soundness of any building/structure and the latter will take such action, as he considers necessary.

22. In order to enable the tenants to lodge their complaints, service centres have been created. A service centre is attended through an attendant to register complaints in a Complaint Register. Mason, Carpenter, Painter, Sewerman, Wireman, Beldar, Khallasi, etc., are detailed to render the service at the earliest. The service centre is attended by the Junior Engineer and Assistant Engineer everyday and by the Executive Engineer at least once a week in general and twice a week where the service centres cater to the maintenance needs of VIP residence. The service centre is responsible for maintenance of the premises including the services within it. To avoid delay in attending the complaints due to non availability of stores in time, procurement action is initiated. Performance of service centres are periodically reviewed.

23. To carry out above functions, service centres are provided by the management in Government institutions, hospitals and, CGHS dispensaries. In such service centres employees who are under the control and supervision of Ministry of Urban Development, are posted. Those employees take steps for maintenance of the buildings and facilities, as the case may be. They claim that they also come in contact with the patients and are susceptible to infection. According to them, Hospital Patient Care Allowance/Patient Care Allowance should be sanctioned

for them also. Accordingly to them, it cannot be said that the degree of contact with the patients is lesser since they do not come in direct contact with them. They project that they are at par with the employees posted in Government institutions, hospital and dispensaries, who work under the administrative control and supervision of the Ministry of Health, Government of India, New Delhi. Non-grant of Hospital Patient Care Allowance/Patient Care allowance is nothing but discrimination.

24. Employees deployed in Government institutions, hospitals and dispensaries, who work under the administrative control of the Ministry of Health, Government of India, New Delhi, provide para medical services. They work in disciplines, such as, (1) medicine, (2) surgery, (3) orthopaedics (4) ear, nose & throat (5) gynaecology, obstetrics & family welfare, (5) burns and plastic surgery, (6) paediatric surgery, (7) skin and sexually transmitted disease, (8) neuro surgery, (9) dental, (10) family welfare(male) and infertility, (11) aids counselling clinic, (12) blood bank, (13) out patient department, (14) anesthesiology, (15) psychiatry, (16) diagnostic laboratories, (17) medicinal research, (18) microbiological research etc.

25. They deal with admission-cum-enquiry and registration of patients. A few of them are responsible for maintaining functional status of equipments in their department and to primarily ensure that these equipments function smoothly/repaired and without lengthy downtime. They are also supposed to keep liaison with the company maintaining the machines, and are also responsible for proper segregation and collection of hospital waste in their respective departments, as per guidelines laid down by the authorities.

26. The employees posted in Government hospital and dispensaries are under an obligation to take care of parties. Their duties are enlisted thus:

- (1) admission and discharge of patients.
- (2) assistance and instructions to patients and their relatives.
- (3) bathing patients, including daily care of mouth and pressure points.
- (4) four hourly or at more frequent attention of pressure points.
- (5) giving and removing bed pans and urine pots.
- (6) giving and removing hot water bottles.
- (7) bed making.
- (8) feeding of patients.
- (9) distribution of diet, milk etc.
- (10) preparation of special feeds, egg, milk etc.
- (11) administration of medicine.
- (12) administration of injection.

- (13) preparation of injections and cleaning up.
- (14) recording of medicines and injections given.
- (15) preparation for assistance in clinical tests and medical procedure.
- (16) pre and post operative care.
- (17) urine testing.
- (18) collection, labeling and dispatching of specimen.
- (19) escorting patients to and from departments.
- (20) giving and receiving reports.
- (21) keeping ward clean and tidy.
- (22) preparation of surgical supplies, bandage, splint.
- (23) routine care and clearing of dressing trolleys, cupboard, apparatus, mackintosh etc.
- (24) care of clean and soiled linens.
- (25) disinfection of linens, beds, floor and bed pans etc.

27. Nursing orderlies receives patients on admissions and assist the patient in getting into and out of bed. He attends to personal hygiene of patients washing and brushing of teeth, change clothing and giving enema etc. He prepares patient for operation, laboratory, X-ray and other investigation. He transports patients to various departments in the hospital. He helps in feeding the patients, giving drinking water to them and washing utensils. He will assist the nurse in handling and observation of patients and in simple basic nursing procedure. He assists nurses or doctor in diagnostic and treatment procedure. He also assists in collecting and handling of pathological specimens. He helps nurses in receiving supplies by running errands to other departments of the hospital and carrying messages of other departments and individuals in hospital. He makes beds for ambulatory patients and assists nurses in making beds for non-ambulatory cases. He helps nurses in getting supply from laundry, disinfecting mattresses and dispatch dirty linen to the laundry. He cleans and does dusting of beds, doors, windows and other furniture. He assists in debugging and pest control of wards. He should wash walls and doors in the wards. He assists in sterilization of instrument appliances and dress and dressing of post-operative wounds. He tenders first aid to patients in case of emergency. He prepares dead bodies, arrange their transportation to mortuary and assists in terminal disinfections. He also carries out duties that may be assigned to him.

28. Sanitary Superintendent, Inspector, Sanitary Supervisor perform duties in respect of sanitation in hospitals and institutions. The Sanitary Supervisor supervises work of Sanitary Inspector in the area assigned to him. He takes regular rounds of the area for cleanliness and assists the Chief Sanitary Superintendent in administrative work. He has to maintain discipline amongst

sanitation staff. Sanitary Inspector is incharge of sanitation of the area under his control. He supervises and guides the Sanitary Supervisors. He reports to the Sanitary Superintendent regarding administrative constraints faced by Safai Karamcharis. He takes supervisory rounds of the ward/operation theatres etc. for cleanliness of the toilets etc. Sanitary Superintendents provide replacement of Safai Karamcharis if regular Safai Karamchari happens to be on leave. He maintains cleanliness and proper sanitation of the area under his supervision.

29. An Assistant in operation theatre helps in packing of syringes, instruments and special trays. He also helps in washing and cleaning of gloves, instruments, needles, syringes etc. He maintains cleanliness of the department and dusting of issuing area as well as sterilization area. He renders Messenger services to wards and departments and takes care of supply of cylinders from gas room to the wards and departments. He reports of shortage etc. to the authorities.

30. Lab. Assistant has to clean and sterilize fibreoptic bronchoscope. He has to clean and maintain lung function test machine and assist the technician in various procedures. He has to do cleaning and sterilization of masks and tubings. He has to assist in performance of bronchoscopy and other diagnostic procedure in respiratory laboratory. Lab. Technician is to assist the doctor in various procedure, such as bronchoscopy, intercostal, intrabronch, transthoracis FNACs, pleural biopsy etc.

31. Paramedical technical employees are playing important role in medical treatment and are backbone of hospitals. Para medical technician has to perform clinical and technical work to help the doctor to make accurate diagnosis for treatment, cure and over all care of patients. They are allied health professionals and play an indispensable role in diagnosis, treatment, prevention, teaching, research and patient care. They render services to assist medical profession in various disciplines viz. radiography, medical laboratory technology, speech therapy and occupational therapy etc. They support the medical team with closely related functions for complete treatment. Paramedical services has proved to be a milestone in treatment of communicable and non-communicable disease. In some of the cases, medical treatment cannot be started till confirmative diagnosis, which is only possible with the help of paramedical services. Such para-medical professionals work in care of patients and come in contact with highly infectious environment, which is loaded with highly virulent and multi drug resistant bacteria. They remain in direct contact with patients with serious communicable disease, like infection, TB, HIV, hepatitis, pseudomonades, gas gangrene and titarus etc.

32. The above analysis of duties performed by employees deputed in Government hospitals, institutions and dispensaries project that the employees who are under

the administrative control of Ministry of Urban Development, Government of India, New Delhi, are concerned with maintenance of buildings while employees, who are under the administrative control of Ministry of Health, Government of India, New Delhi, are to take care of diagnosis, treatment, prevention of diseases, teaching, research and patient care. These two group of employees though deployed in Government hospitals, institutions and dispensaries, have to work in different areas. They have to utilise their professional education, skill, expertise, independent judgment capability and communication skill etc. for performance of their job more efficiently. Employees, such as Statistical Assistant, Hindi Assistant cum Hindi Translator, Head Cashier, Assistant Superintendent (Store), Accountant (Senior), Confidential Assistant, Accountant (Junior), UDC, Store keeper, Receptionist, Stenographer, Cashier, LDC, Store Keeper cum LDC work in process, operation or other work, which are incidental to or necessary to carry out duties by the medical profession and para medical professionals deployed in Government hospitals, institutions and dispensaries. Employees of same categories, who are under administrative control of Ministry of Urban Development, Government of India, New Delhi, work in process, operation or other work which are incidental or necessary to carry out maintenance work of the buildings. Therefore, these two group of employees work in different fields and cannot be bracketed on one pedestal.

33. Equality before law and equal protection of laws are fundamental rights of every person, ordains Article 14 of the Constitution. The guiding principles laid in Article 14 are that persons, who are similarly situated, shall be treated alike both in privileges conferred and liability imposed, which means that amongst equals the law should be equal and should be equally administered and that like should be treated alike. Article 16 of the Constitution guarantees equality of opportunities for all citizens in matters relating to employment or appointment to any office under the State. What is guaranteed is the equality of opportunity. Like all other employers, Government is also entitled to pick and choose from amongst a large number of candidates offering themselves for employment. But the selection process must not be arbitrary. The guarantee given by clause (a) of Article 16 of the Constitution will cover (a) initial appointments (b) promotions (c) termination of employment (d) and matters relating to salary, periodical increments, leaves, gratuity, pension, age of superannuation etc. Matters relating to employment or appointments include all matters in relations to employment both prior and subsequent to the employment which are incidental to the employment and form part of the terms and conditions of such employment.

34. Fundamental rights guaranteed by Article 14 forbids class legislation, but does not forbid classification or differentiation which rests upon reasonable ground of discretion. Classification is the recognition of the relations,

and in making it the Government must be allowed a wide latitude of discretion and judgment. In a way, the consequences of such classification would undoubtedly be to differentiate persons belonging to that class from others. The classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and the differentia must have a rational relation to the object sought to be achieved. Classification may be made according to the nature of persons, nature of business, and may be based with reference to time.

35. Concept of equality guaranteed by Article 16 of the Constitution is something more than formal equality and enables the underprivileged groups to have a fair share by having more than equal chance and enables the State to give favoured treatment to those groups by achieving real equality with reference to social needs. 'Protection discrimination' enabled the State to adopt new strategy to bring underprivileged at par with the rest of the society, by providing all possible opportunities and incentives to them. Therefore a class may be allowed to have preferential treatment in the matter relating to employment or appointment. There cannot be rule of equality between members of separate and independent group of persons. Persons can be classified in different groups, based on in terms of nature of persons, nature of business and with reference to time.

36. In Jasmer Singh, [1996(11) SCC 77], the Apex Court made it clear that equal pay can be given for equal work of equal value. How work of two employees can be assessed to be of equal value was laid down by the Apex Court as follows:

"It is, therefore, claimed that quality of work performed by different sets of persons holding different jobs will have to be evaluated. There may be differences in educational or technical qualifications which may have a bearing on the skills which the holders bring to their job although the designation of the job may be the same. There may also be other considerations which have relevance to efficiency in service which may justify differences in pay-scale on the basis of criteria such as experience and seniority, or a need to prevent stagnation in the cadre, so that good performance can be elicited from persons who have reached the top of the pay-scale. There may be various other similar considerations which may have a bearing on efficient performance in a job. This Court has repeatedly observed that evaluation of such jobs for the purposes of pay-scale must be left to expert bodies and, unless there are any malafides, its evaluation should be accepted".

37. In case nature of work is the same, irrespective of educational qualification, mode of appointment, experience and other relevant factors, principle of equal pay for equal work cannot apply, as held by the Apex Court in Tarun K Roy [2004 (1) SCC 347]. Whether members of the claimant

Union can project their case for grant of Hospital Patient Care Allowance/Patient Care Allowance on the grounds that they perform equal work as performed by the employees who are under the administrative control of Ministry of Health, Government of India, New Delhi ? Answer lies in the negative. At the cost of repetition, it is said that the work performed by two sets of employees had no nexus of equality. The Apex Court in Surender Singh [2007 (115), FLR 1003] had reviewed the law and laid that for grant of equal pay for equal work, it has to be shown that there is total and complete identity between two persons and only thereafter they can be granted equal pay for equal work. The law laid is reproduced thus:

"Principles of equal pay for equal work has undergone a sea change. Earlier view of this Court was that if two persons are discharging the same functions, they will be entitled to same wages. Subsequently, that view has been changed and now the view of this Court is that there should be complete and total identity between two persons, similarly situated so as to grant equal pay for equal work. Recently, this Court has held that identity between two persons is to be complete and total. In case of regular appointee, he has undertaken selection process and his services are regular. Even if a daily wager employee who is discharging the same function as a regular employee, the authorities are not bound to grant equal pay to such a person who is appointed on daily wage basis, i.e. he is appointed for a short term and has not faced the selection process. Thus the principle of equal pay for equal work is to be granted only if there is total complete identity between the two persons. In this view, we are supported by decision of this Court in the case of Shri S.C. Chandra and others vs. State of Jharkhand and others [2007 (9) SCR 130], which is referred to in earlier decision of this court."

38. As projected above, there is no complete and wholesale identity between two set of employees. Employees who are under the administrative control of Ministry of Urban Development are recruited with the objective of maintenance of Government institutions, hospitals and dispensaries. They have experience in the field of maintenance of buildings. On the other hand, employees under the administrative control of Ministry of Health, Government of India, New Delhi, are recruited to take care of diagnosis, treatment, prevention of disease and care of patients who visit Government hospitals, institutions and dispensaries. They operate in different fields and perform different nature of jobs and responsibilities. Their educational qualification, experience, method of recruitment and promotion to different categories of posts are totally different. Hence, it cannot be said that these two group of employees have complete and wholesale identity to get Hospital Patient Care allowance/Patient Care allowance.

39. There is other facet of the coin. An application was preferred by the members of the Union before the

CAT, seeking grant of Hospital Patient Care Allowance/ Patient Care Allowance, which application was disposed off vide order dated 27-2-2007. The said order has attained finality. Question for consideration comes as to whether the order, referred above operates as res judicata in the present controversy? Section 11 of the Code of Civil Procedure 1908 (in short the code) embodies the doctrine of res-judicata or the rule of conclusiveness of a judgment, as to the point decided either of fact, or of law, or of fact and law, in every subsequent suit between the same parties. It enacts that once a matter is finally decided by a competent court, no party can be permitted to reopen it in a subsequent litigation. The doctrine of res-judicata has been explained in the simplest possible manner by Das Gupta J. in the case of *Statyadhyana Chosal Vs. Deorajin Debi* (AIR 1960 S.C. 941) in the following words:

"The principle of res-judicata is based on the need of giving a finality to judicial decision. What it says is that once a res-judicata, it shall not be adjudged again. Primarily it applies as between past litigation and future litigation. When a matter - whether on a question of fact or a question of law - has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies, neither party will be allowed in a future suit or proceedings between the same parties to canvass the matter again".

40. it is not every matter decided in a former suit that will operate as res-judicata in a subsequent suit. To constitute a matter as res-judicata under Section 11 of the Code, the following conditions must be satisfied:

1. The matter directly and substantially in issue in the subsequent suit must be the same matter which was directly and substantially in issue either actually or constructively in the former.

2. The former suit must have been a suit between the same parties or between parties under whom they or any of them claim.

3. Such parties must have been litigating under the same title in the former suit.

4. The court which decided the former suit must be a court competent to try the subsequent suit or the suit in which such issue is subsequently raised.

5. The matter directly and substantially in issue in the subsequent suit must have been heard and finally decided by the court in the former suit.

41. Section 11 of the Code bars trial of any suit as well as an issue which had been decided in a former suit. Issue are of three kinds: (i) Issue of fact; (ii) Issue of law; and (iii) Mixed issues of law and fact. A decision on an issue of fact, however erroneous it may be, constitutes res-judicata between the parties to the previous suit and cannot be reagitated in collateral proceedings. Law to this

effect was laid in *Mathura Prashad Vs. Dossibai* (1970 (1) SCC 613). A mixed issue of law and fact also, for the same reasons, operates as res-judicata.

42. To invoke plea of res-judicata it should be shown that the court which decided the former suit must have been a court competent to try the subsequent suit. Thus, the decision in a previous suit by a court, not competent to try the subsequent suit, will not operate as res-judicata. The expression "competent to try means "competent to try the subsequent suit if brought at the time the first suit was brought". In other words, the relevant point of time for deciding the question of competence of the court is the date when the former suit was brought and not the date when the subsequent suit was filed. In order that a decision in a former suit may operate as res-judicata, the court which decided that suit must have been either (a) a court of exclusive jurisdiction, or (b) a court of limited jurisdiction; or (c) a court of concurrent jurisdiction.

43. Principles analogous to res-judicata are applicable to industrial adjudication too, despite the fact that provisions of section 11 of the Code are not attracted. The CAT is a Court of limited jurisdiction, as far as service matters, those relate to service conditions of an employee who answers the definition of a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947, are concerned. The CAT is competent to try the issue raised in the claim, under reference. Application, moved before the CAT, was between the same parties, who were litigating under the same title as they are litigating now.

44. Now it would be considered as to whether the CAT was seized of the issue which is raised before this Tribunal. As emerge out of the order dated 27-2-07, the CAT was seized of the issue, namely, grant of Hospital-Patient Care Allowance/Patient Care Allowance to the members of the Union. The issue was heard and decided against the applicants. Question for consideration comes as to whether the said order would operate as res judicata? For an answer the Tribunal has to take into account principles analogous to constructive res judicata. The rule of constructive res judicata, embodied in explanation IV of section 11 of the Code is part of the general principles of law of res judicata and one cannot say that any innovation has been introduced in the law by enacting the said explanation. An adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have had decided as incidental to or essentially connected with the subject matter of the litigation and every matter coming within the legitimate preview of the original action both in respect the matters of claim or defence. The principle underlying the said explanation is that where the parties have had an opportunity of controverting a matter that should be taken to be the same thing as if the matter had been actually controverted and decided. Therefore, the issue which might and ought to have been raised in the

previous litigation would be barred by constructive res-judicata in the subsequent limitation. Where a matter was constructively in issue in the previous suit it can be said to have been deemed to be heard and decided.

45. Here in the case issue of non payment of Hospital Patient Care Allowance/Patient Care Allowance was actually in issue before the CAT. It was heard and decided against the members of the claimant Union. In that situation it emerges over the record that the issue which the claimant Union want to raise before this Tribunal was raised by them before the CAT and it was decided against them. Consequently it is concluded that order dated 27-2-2007 operates as res-judicata and bars the claimant Union to re-agitate the issue of non payment of Hospital Patient Care Allowance/Patient Care Allowance to its members.

46. In view of these facts, it is apparent that members of the claimant Union are not entitled to Hospital Patient Care allowance/Patient Care allowance. The claim put forward cannot be granted. The same is, therefore, brushed aside. An award is, accordingly, passed against the claimant Union and in favour of the management. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated: 30-7-2012

नई दिल्ली, 13 अगस्त, 2012

का. आ. 2780.—केन्द्रीय सरकार संतुष्ट हो, जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना संख्या का.आ. दिनांक 17-2-2012 द्वारा तंत्रा खनन उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 13 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 25-2-2012 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 25-8-2012 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/11/97-आई आर (पीएल)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 13th August, 2012

S. O. 2780.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act,

1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour and Employment, dated 17-2-2012 the service in the Copper Mining Industry which is covered by item 13 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a Public Utility Service for the purpose of the said Act, for a period of six months from the 25th February, 2012.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months from the 25th August, 2012.

[No. S-11017/11/97-IR (PL)]

CHANDRA PRAKASH, Jt. Secy.

नई दिल्ली, 13 अगस्त, 2012

का.आ. 2781.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि कोयला उद्योग में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 4 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/2/1997 आई आर (पीएल)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 13th August, 2012

S. O. 2781.—Whereas the Central Government is satisfied that the public interest requires that the services in the Coal Industry which is covered by item 4 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a 'Public Utility Service' for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a 'Public Utility Service' for the purpose of the said Act for a period of six months.

[No. S-11017/2/97-IR (PL)]

CHANDRA PRAKASH, Jt. Secy.